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Friday
October 10, 1986

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Presidential Documents

Title 3—

The President

Proclamation 5538 of October 8, 1986

Mental Illness Awareness Week, 1986

By the President of the United States of America

A Proclamation

Because of the fear and ignorance of some Americans, the mentally ill often are reluctant to seek the treatments that could alleviate their physical symptoms and emotional pain. Many who are being deprived of a happy and productive future because their mental disorders go unrecognized or ignored could be helped with appropriate mental health treatment. Our Nation can no longer afford the price of the stigma against the mentally ill.

The emotional and physical price paid by the mentally ill and their families is incalculable. It is time to bring about change. We must understand that mental illnesses are real—not imaginary or self-inflicted—and that some are caused by biochemical or brain dysfunctions that require medical attention in addition to supportive services.

We must also become more aware that appropriate treatment can lift depression, ameliorate hallucinations and delusions, relieve panic and anxiety, and overcome dysfunctional behavior and thinking patterns. We must also realize that treatment of mental illness restores productivity to the treated, reduces their use of other health services, and increases their social independence.

Research has prompted unparalleled growth in scientific knowledge about mental illness. New technologies have permitted study of the living brain and elucidated its linkages to normal and abnormal behaviors. Such research has profound implications for all of us because it offers hope for those with the most devastating and resistant disorders and because it provides clues to the bases of human behavior.

In recognition of the urgent need to educate the American public about mental illnesses and their treatments, the Congress, by Public Law 99–404, has designated the week of October 5 through October 11, 1986, as "Mental Illness Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 5 through October 11, 1986, as Mental Illness Awareness Week. I call upon all people of the United States to observe such week with ceremonies and activities designed to exchange fear of mental illness for knowledge of its causes and treatments and to replace stigma against the mentally ill with understanding of their needs and suffering.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86–23206
Filed 10–9–86; 11:38 am]
Billing code 3195–01–M

Presidential Documents

Proclamation 5539 of October 8, 1986

National Fire Fighters Day, 1986

By the President of the United States of America

A Proclamation

Our Nation's fire fighters protect our lives, our families, and the economic life of our communities from the threat of fire. Many valiant fire fighters have given their lives, and all daily risk death or injury, to preserve the lives of others and to protect our property and resources from destruction.

Our more than 2 million professional and volunteer fire fighters make countless contributions and sacrifices for their fellow citizens. In 1984, these fire fighters responded to more than 2 million fires and more than 8 million non-fire emergencies. These brave Americans well deserve our gratitude and public recognition.

The Congress, by Public Law 99–343, has designated October 8, 1986, as "National Fire Fighters Day" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Wednesday, October 8, 1986, as National Fire Fighters Day, and I urge all Americans to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86–23207
Filed 10–9–86; 11:39 am]
Billing code 3195–01–M

Presidential Documents

Proclamation 5540 of October 8, 1986

General Pulaski Memorial Day, 1986

By the President of the United States of America

A Proclamation

On October 11, the United States celebrates General Pulaski Memorial Day, an opportunity for all Americans to reflect on Casimir Pulaski's achievements as a leader and a soldier in our country's struggle for freedom in the Revolutionary War.

General Pulaski died on October 11, 1779, from wounds suffered while he led a cavalry charge during the siege of Savannah. Forced to flee his homeland of Poland after struggling for his country's independence, he generously put his skills as a soldier and military tactician at the service of our fledgling Nation.

General Pulaski asked to be buried at sea, that the waves might carry him back to his native Poland. Polish Americans recognize and revere his abiding ties to a Poland where faith, sacrifice, and selfless toil for liberty are the bedrock of the nation's proud traditions. General Pulaski's heroism is an inspiration as well to all Americans. He recognized no barriers of culture, language, or history in humanity's universal search for individual rights and for political and religious liberty.

General Pulaski's spirit survives today—in our hearts and in the rights enshrined in our Constitution. We can enjoy our freedoms because of the enduring vision for which Casimir Pulaski fought and died. We stand for these rights in our dialogue with other nations, where each released political prisoner, every gain for a free press or freedom of worship, or any progress toward freedom of speech and assembly is a new victory in the struggle General Pulaski undertook more than 200 years ago.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Saturday, October 11, 1986, as General Pulaski Memorial Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings on that day. In addition, I encourage the people of the United States to commemorate this occasion as appropriate throughout the land.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86-23208
Filed 10-9-86; 11:40 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5541 of October 8, 1986

Columbus Day, 1986

By the President of the United States of America

A Proclamation

Each year, we are privileged to honor Christopher Columbus, whose epic voyages of discovery shaped the development of the Western Hemisphere. This great explorer won a place in history and in the hearts of all Americans because he challenged the unknown and thereby found a New World.

Columbus remains loved today. With his faith, vision, and courage, he could navigate beyond his world's horizons. He left a wide wake for all those to follow who would dream as he dreamed, who would defy the naysayers and dare to strive for new goals. Follow him they did; and may they ever do so, those who would make the New World ever new with all the ingenuity, energy, and boldness they have.

Americans of Italian descent are proud to say that Columbus, a son of Genoa, was the first of many Italians to come to America and a powerful reason the United States and Italy share the unique friendship they do. Those of Spanish descent likewise point out that Spain made Columbus's voyages possible and that he is the first link in the friendship of the United States and Spain. All Americans share in this just pride.

We are nearing the year 1992, when the world will celebrate the 500th anniversary of Columbus's first voyage to the Americas. The Christopher Columbus Quincentenary Jubilee Commission, a distinguished group of Americans aided by representatives from Spain and Italy, held its initial working sessions in Chicago, Miami, and San Juan, cities that are planning major commemorative events in 1992. It also began a report to the Congress, to be delivered in September 1987, that will make recommendations about our Nation's observance of the celebration.

The passage of time—nearly half a millennium—has not dimmed the glory of the Admiral of the Ocean Seas, nor could it ever.

In tribute to Christopher Columbus, the Congress, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as "Columbus Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Monday, October 13, 1986, as Columbus Day. I invite the people of this Nation to observe that day with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86-23209
Filed 10-9-86; 11:41 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 530; Lemon Regulation 529, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 255,000 cartons during the period October 12 through October 18, 1986, and increases the quantity of lemons that may be shipped during the period October 5 through October 11, 1986, to 247,961 cartons. Such action is needed to balance the supply of fresh lemons with demand for such periods, due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: Regulation 530 (§ 910.830) is effective for the period October 12 through October 18, 1986, and the amendment (§ 910.829) is effective for the period October 5 through October 11, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small business will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have small entity orientation and compatibility.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1986–87. The committee voted by telephone on October 6, 1986, and met publicly on October 7, 1986, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports that lemon demand is good on large fancy sizes and expect demand to improve on small-size fruit. The increase in the allotment was recommended due to the improvement in the lemon market and the current allotment is inadequate to meet lemon demand.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, or postpone the effective date unitl 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. Handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.830 is added to read as follows:

§ 910.830 Lemon regulation 530.

The quantity of lemons grown in California and Arizona which may be handled during the period October 12, 1986, through October 18, 1986, is established at 255,000 cartons.

3. Section 910.829 is revised to read as follows:

§ 910.829 Lemon Regulation 529

The quantity of lemons grown in California and Arizona which may be handled during the period October 5, 1986 through October 11, 1986, is established at 247,961 cartons.

Dated: October 7, 1986.

Joseph A. Gribbin,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–23083 Filed 10–9–85; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This action terminates the Federal marketing order for cherries grown in eight States effective April 30, 1987, because the Secretary of Agriculture has determined that the order no longer tends to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended. Termination of the order was favored by a majority of producers in

the regulated States who voted in a continuance referendum held March 10–20, 1986.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This action is governed by the provisions of section 8c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act"

Marketing Order No. 930 regulates the handling of cherries grown in eight States and has been in effect continuously since 1971. The order regulates the handling of cherries grown in Michigan, New York Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia. and Maryland. The order provides for the establishment of reserve pools of cherries in years when production exceeds market needs. Such cherries are returned to the market in periods when production falls short of normal market requirements.

Section 930.73 of the order requires that a referendum be conducted by the Secretary every fifth year to ascertain whether continuation of the order is favored by producers and handlers. When the results of the referendum indicate that: (1) More than 50 percent of the producers by number or volume of production represented in the referendum or (2) more than 50 percent of the handlers, who during the current fiscal period handled more than 50 percent of the total volume of cherries processed in the production area by those handlers voting in the referendum favor termination of the order, the Secretary shall give consideration to terminating the order.

Continuance referenda at 5-year intervals afford producers and handlers an opportunity to express themselves at regular intervals as to whether or not the program should continue in effect. Based upon record evidence at the public hearing which preceded issuance of the order including § 930.73, it was concluded that if the percentage of producers or handlers expressing themselves as favoring termination exceeded the levels specified in the order, it would be reasonable to assume that the program is not measuring up to their expectations. It was noted that under such circumstances, it may be difficult to administer the order. Therefore, the Secretary should terminate the program in accordance with the act.

Pursuant to section 930.73 of the order, the Department published a referendum order in the **Federal Register** on March 5, 1986 (51 FR 7578) which directed that a continuance referendum be conducted among producers and handlers. In the referendum conducted March 10–20, 1986, 64 percent of all cherry producers voted and 83 percent of all cherry handlers voted. Of those voting, 51 percent of the producers and 56 percent of the handlers favored termination of the cherry marketing order. Voting producers who favored termination represented 45 percent of the volume of production represented in the referendum. Voting handlers who favored termination represented 40 percent of the processed volume represented in the referendum.

Given the high level of producer and handler participation, these results are a reliable indicator of their sentiment, and clearly demonstrate that a significant portion of the producers and handlers do not favor continuation of the cherry order. In the absence of substantial industry support, marketing order operations tend to be less effective. Experience in similar circumstances indicates that it often becomes difficult for a marketing order committee to obtain the requisite majority of votes necessary to approve recommendations for implementing order authorities. Moreover, a committee may experience difficulty in obtaining compliance with order requirements from all handlers in such a circumstance. Given the demonstrated lack of producer and handler support for the cherry order, it is determined that it no longer fulfills the objectives of the act.

Therefore, based on the foregoing considerations, pursuant to section 8c(16)(A) of the act and § 930.73 of the order, it is found that Marketing Order No. 930, regulating the handling of Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland, issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and all rules and regulations and supplementary orders issued thereunder and now effective do not tend to effectuate the declared policy of the act and are hereby terminated. The Food Security Act of 1985 requires the Secretary to notify Congress 60 days in advance of the termination of any Federal marketing order pursuant to section 8c(16)(A) of the act. Congress was so notified on April 19, 1986.

To avoid undue disruption within the cherry industry, maintain continuity throughout the end of the 1986–87 fiscal period, and in accordance with order requirements, this termination of order No. 930, and all rules, regulations and supplementary orders thereunder, shall become effective on April 30, 1987. The time remaining before the termination date is an adequate period of time for the Cherry Administrative Board, the agency responsible for local administration of the order, to dispose of all currently held reserve pool cherries and return the proceeds from sales of such cherries to equity holders.

List of Subjects in 7 CFR Part 930

Marketing orders, Cherries.

1. The authority citation for 7 CFR Part 930 continues to read:

Authority: Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674.

PART 930—[REMOVED]

2. Accordingly, 7 CFR Part 930 is removed.

Dated: October 6, 1986.

Peter C. Myers,

Deputy Secretary.

[FR Doc. 86–22974 Filed 10–9–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

Handling of Almonds Grown in California; Quality Control

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the quality control provisions of the administrative rules and regulations established under the Federal marketing order for California almonds to increase the tolerance for inedible almonds from zero percent to three percent. This change will allow more almonds to be shipped in view of a projected short almond crop while maintaining acceptable quality standards.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural

Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This action will increase the grade defect tolerance for almonds from zero percent to three percent. Almonds with grade defects in excess of three percent will be classified as inedible. This action relaxes current regulations and will allow more almonds to be shipped in view of a projected short almond crop while maintaining acceptable quality standards.

It is estimated that 70 handlers of California almonds under the marketing order for almonds grown in California will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. It is anticipated that this action will not impose additional costs on affected handlers. However, any such additional costs, if present at all, would not be significant.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) in that: (1) It is intended that the regulation apply to 1986 crop almonds which handlers now are receiving, processing, and marketing in volume; (2) the regulation relaxes restrictions on handlers, and handlers should have the opportunity to utilize this increased flexibility as soon as possible; (3) handlers are aware of this action and need no additional time to comply; and (4) no useful purpose would be served by delaying the effective date of this action.

Notice of ths action was published in the Federal Register on September 9, 1986 (51 FR 32103). Written comments were invited from interested persons until September 19, 1986. No comments were received.

This action revises § 981.442 of Subpart—Administrative Rules and Regulations issued pursuant to the marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." Section 981.442 is issued pursuant to § 981.42(a) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based on a recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order, and other information.

Section 981.42(a) of the almond order provides that each handler shall cause to be determined through the inspection agency and at handler expense the percent of inedible kernels in each variety received and shall report the determination to the Board. Section 981.442(a)(4) of the administrative rules and regulations currently provides that the weight of inedible kernels reported to the Board in excess of zero percent for each variety shall constitute a handler's disposition obligation. This weight must be accumulated by the handler during processing and delivered to the Board or Board-accepted crushers, feed manufacturers, feeders, or dealers in nut wastes.

This action revises § 981.442(a)(4) so that the quantity of inedible kernels in each variety in excess of three percent, instead of the current zero percent, constitutes a handler's disposition obligation. The Board believes that this change will maintain acceptable quality standards while allowing more almonds to be shipped in view of a projected short almond crop.

After consideration of all relevant matter presented, including the Board's recommendation and other available information, it is further found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds.

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. In § 981.442, the first sentence of paragraph (a)(4) is revised to read as follows:

§ 981.442 Quality control.

(a) * * *

(4) The weight of inedible kernels in excess of three percent of kernel weight reported to the Board of any variety received by a handler shall constitute that handler's disposition obligation.

* * * * *

Dated: October 6, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86–23050 Filed 10–9–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1230

Pork Promotion, Research, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: AMS is correcting the heading of the table listing the assessment amounts for imported pork and pork products which appeared in the September 5, 1986, Federal Register (51 FR 31898) to read "dollars per pound" rather than "cents per pound."

FOR FURTHER INFORMATION CONTACT: Ralph Tapp, Chief, Marketing Programs and Procurement Branch (202) 447–2650.

The following correction is made in FR Doc. 86–20073, the Pork Promotion, Research, and Consumer Information Order (7 CFR Part 1230) published in the September 5, 1986, Federal Register (51 FR 31898):

1. In §1230.71, paragraph (e) the first column on page 31908, change the heading of the table from "Assessment (cents per pound)" to "Assessment (dollars per pound)."

Done at Washington, DC, on: October 6, 1986.

James C. Handley,

Administrator, Agricultural Marketing Service.

[FR Doc. 86–22971 Filed 10–9–86; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 86–087]

Tuberculosis in Cattle; State Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle because of tuberculosis by raising the designation of Georgia and Missouri from modified accredited areas to accredited-free

States. It has been determined that Georgia and Missouri meet the criteria for designation as accredited-free States.

The regulations do not impose restrictions on the interstate movement of cattle not known to be affected with or exposed to tuberculosis from either accredited-free States or modified accredited areas. However, the designation for any given jurisdiction can affect the marketability of cattle from that jurisdiction, since some prospective cattle buyers prefer to buy cattle from accredited-free States.

DATES: Interim rule effective October 10, 1986; comments must be received on or before December 9, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86–087. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Domestic Programs Support Staff, VS, APHIS, USDA, Room 815, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8438.

SUPPLEMENTARY INFORMATION:

Background

The "Tuberculosis in Cattle" regulations (contained in 9 CFR Part 77 and referred to below as the regulations) regulate the interstate movement of cattle because of tuberculosis. The requirements of the regulations concerning the interstate movement of cattle not known to be affected with or exposed to tuberculosis are based on whether the cattle are moved from jurisdictions designated as accredited-free States, modified accredited areas, or nonmodified accredited areas. The criteria for determining the status of States (the term State is defined to mean any State, territory, the District of Columbia, or Puerto Rico) or portions of States are contained in a document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which has been made part of the regulations by incorporation by reference. Generally the status of States or portions of States is determined based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis control and eradication program.

Sections 77.7 and 77.8 of the regulations provide the following with respect to the interstate movement of cattle not known to be affected with or exposed to tuberculosis:

§ 77.7 Movement from accredited-free States and modified accredited areas.

Cattle not known to be affected with or exposed to tuberculosis, originating in an accredited-free State or a modified accredited area, may be moved interstate without restriction.

§ 77.8 Movement from nonmodified accredited areas.

Cattle not known to be affected with or exposed to tuberculosis, originating in a nonmodified accredited area, shall only be moved interstate if:

(a) Such cattle are accompanied by a certificate stating that such cattle have been classified negative to an official tuberculin test, which was conducted within 30 days prior to the date of movement. All cattle not individually identified by a registration name and number shall be individually identified by a Veterinary Services approved metal eartag or tattoo; or

(b) Such cattle are from an accredited herd and they are accompanied by a certificate showing the cattle to be from such a herd; or

(c) Such cattle are moved interstate directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter.

Prior to the effective date of this document, Georgia and Missouri, among other States, were designated under § 77.5 of the regulations as modified accredited areas. The Deputy Administrator has determined that Georgia and Missouri meet the criteria for designation as accredited-free States. Therefore, this document amends the regulations by adding Georgia and Missouri to the list of accredited-free States in § 77.4.

As noted above, the regulations do not impose restrictions on the interstate movement of cattle not known to be affected with or exposed to tuberculosis from accredited-free States or modified accredited areas. However, the designation for any given jurisdiction can affect the marketability of cattle from that jurisdiction, since some prospective cattle buyers often prefer to buy cattle from accredited-free States.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the States of Georgia and Missouri will not cause a significant effect on marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. It is necessary to change the regulations immediately so that they accurately reflect the current tuberculosis status of Georgia and Missouri, and thereby provide prospective cattle buyers with accurate and up-to-date information which may affect the marketability of cattle.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of

this document. A document discussing comments received and any amendments required will be published in the **Federal Register.**

List of Subjects in 9 CFR Part 77

Animal diseases, Cattle, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS IN CATTLE

Accordingly, 9 CFR Part 77 is amended as follows:

1. The authority citation for Part 77 continues to read as set forth below:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 77.4, paragraph (b) is revised to read as follows:

§ 77.4 Accredited-free States.

* * * * *

(b) The following States are hereby designated accredited-free States: Alaska, Arizona, Colorado, Connecticut, Delaware, Georgia, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Wisconsin, Wyoming, and the Virgin Islands of the United States.

Done at Washington, DC, this 7th day of October 1986.

B.G. Johnson,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–22975 Filed 10–9–86; 8:45 am]

BILLING CODE 3410–34–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33–6663; File No. S7–13–86]

Form D and Regulation D

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission, with acknowledgement of the cooperation of the North American Securities Administrators Association, Inc. ("NASAA"),[1] announces the adoption of various revisions to Form D and Regulation D under the Securities Act of 1933 (the "Securities Act") designed to make the Form a uniform notification form that can be filed with the Commission and with the States. Certain revisions to the Form which are being adopted affect various items of disclosure which have previously been required in the filing. In addition, the provisions requiring the Form to be updated every six months until the offering is completed, and requiring a final filing within thirty days of the final sale or the completion of the offering, have been eliminated.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Karen O'Brien, (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On June 5, 1986, the Commission with the cooperation of NASAA published for comment [2] several proposed amendments to Form D and the description of Form D,[3] the notification Form required to be filed by issuers relying on the exemptions from the registration provisions of the Securities Act provided by Regulation D [4] thereunder and Section 4(6) of the Securities Act.[5]

The proposed revisions to the Form allow for a uniform notification form that can be filed with the Commission and with the States. Other revisions revise or eliminate certain item requirements from the Form and eliminate the Federal requirements to update the Form every six months and to file a final form upon the completion of the offering. These proposals mark a continuation of the Commission's efforts to reduce the costs of capital formation for small issuers and to promote uniformity between Federal and State securities regulation. Having considered the comments received from the public, the Commission is adopting the revisions substantially as proposed.

I. Revisions to Form D

Form D is required to be filed whenever any of the Regulation D exemptions or section 4(6) exemption from the registration requirements of the Securities Act is relied upon. Due to the relationship between Regulation D and the Uniform Limited Offering Exemption ("ULOE") which has been adopted by more than half of the States, there has been substantial uniformity for certain exempt securities transactions at both the Federal and State levels. The proposed revisions to Form D were designed in part to encourage more States to adopt ULOE. The revisions also will be beneficial to the States which have already adopted ULOE. As amended, the Form provides for special instructions for the Federal and State filing, including a separate appendix keyed to specific items of the form on a state-by-state basis. There is also a separate Federal and State signature page. Thus, it will now be possible for an issuer to fill in and sign a single Form D and then duplicate the appropriate number of copies for filing with the Commission and the States.

Substantively, the Form no longer requires certain disclosures about the issuer, such as gross revenues, total assets and numbers of shareholders. Information about the use of proceeds and expenses of the offering have been made parallel to those requirements in Form SR [6] and Item 504 of Regulation S–K.[7] In the area of disclosure about affiliates, Form D now only requires identification of an issuer's executive officers, directors, general partners, promoters and persons beneficially owning 10 percent or more of a class of equity securities, rather than all affiliates.

Certain technical, format changes have been made in the layout and organization of the Form, which make no substantive changes to the Form D proposed for comment but are intended to make the Form clearer and easier to fill out.

II. Revisions to the Filing Requirements

The Commission also has revised the Instructions to Form D and Rule 503 to eliminate the requirements to file with the Commission six month updates and the final notification on Form D. The initial notice is still required to be filed with the Commission within 15 days of the first sale of securities in an offering under Regulation D or section 4(6). Issuers must determine the filing requirements of each State where the Form can be used.

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[1] NASAA is an association of securities administrators from each of the 50 states, the District of Columbia, Puerto Rico and several of the Canadian provinces.

[2] Release No. 33–6650 (June 5, 1986) [51 FR 21378].

[3] 17 CFR 239.500.

[4] 17 CFR 230.501–230.506.

[5] 15 U.S.C. 77d(6).

[6] 17 CFR 239.61. The Commission has under consideration several proposals which could change the information requirements in Form SR. If such form is changed in this regard, it is currently projected that parallel changes would also be made to Form D.

[7] 17 CFR 229.504.

III. Public Comments Regarding the Proposals

The Commission received 13 comment letters regarding the proposals, all of which supported the basic revisions to the Form D and the concept of having a single notification form available for both Federal and State filing purposes.[8] A number of the commentators recommended the inclusion of certain additional or clarifying information in the Form which the Commission has considered and adopted in certain instances. For example, the issuer as well as the offering is now identified on the cover page of the Form. It was also noted that the State of Washington was omitted from the appendix and that Column 4 of such appendix was incorrectly constituted. These matters have been rectified. Generally, however, the scope of the information sought by Form D has remained as proposed for comment.

Three commentators, representing the State securities regulators in Alabama, Texas and Washington, opposed elimination of the final filing requirement. These commentators are concerned that their monitoring activities may be impaired without the information contained in the last filing, which in turn may hurt their efforts to enforce compliance with Regulation D. With regard to the elimination of the final filing requirement, the Commission gave careful consideration to the concerns of the commentators, in balance with the needs of investors and the costs imposed upon affected persons. The information contained in the original notification has proved sufficient for the Commission's enforcement surveillance for compliance with the requirements of Regulation D. No significant administrative or enforcement proceedings have resulted from final Form D filings made with the Commission. Thus, in view of the tremendous volume of final filings (7,414 in 1985, or over 27% of all filings that year), even at a nominal expense to both the preparing party and the Commission, it is apparent that significant cost savings may be had with negligible consequence to investors through elimination of the final filing requirement.

Two State securities regulators, representing Alabama and Washington, were also concerned about the revision of the required identification of affiliates item. These commentators believe the information is useful in their enforcement efforts, particularly in the area of disqualified parties involved in the offering of securities. The Commission believes that the revised item continues to encompass the major affiliates of an issuer. No specific examples of affiliates who are material that would be left undisclosed were cited in these or other commentators' letters.

[8] The comment letters and a summary of comments (File No. S7-13-86) are available for public inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW, Washington, DC 20549.

IV. NASAA Cooperation

In connection with its publication of the proposed revisions to Form D, the Ccmmission acknowledged the cooperation of NASAA and particularly its Small Business Financing Committee. The Commission understands that following its adoption of the revisions to Form D, the NASAA Committee will recommend adoption by NASAA of appropriate modifications to ULOE to provide for the uniform form. With respect to the elimination of the final reporting requirement, the Committee has taken no position and will not recommend either for or against this provision. The Commission appreciates the cooperation of NASAA and the members of its Committee in connection with the revisions to Form D. The Commission looks forward to continued cooperation between NASAA's members and the Commission to achieve greater uniformity between the Federal and State systems of securities regulation, and thus to promote efficient capital formation consistent with the protection of investors.

V. Availability of Final Regulatory Flexibility Analysis

A final Regulatory Flexibility Analysis in accordance with the Regulatory Flexibility Act regarding the amendments has been prepared. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the proposing release. Members of the public who wish to obtain a copy of the Final Regulatory Flexibility Analysis should contact Karen O'Brien as specified above.

VI. Cost-Benefit Analysis

While no specific data was provided on the Commission's request for costs and benefits of the proposals, many of the commentators suggested that there would be some cost savings from the proposed revisions including elimination of the six month updates and final filing requirements. It is worth noting again that had these provisions not been in effect during 1985, approximately 37% of the Form D filings that year would have been avoided. The Commission believes that the benefits from the required initial filing and the information contained therein will be sufficient for purposes of investor protection.

VII. Statutory Basis and Text of the Amendments

The amendments to the Commission's Forms and rule are being adopted pursuant to sections 3(b), 4(2), 19(a) and 19(c)(3) of the Securities Act.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Amendments

Accordingly, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part as follows:

Authority: Sections 230.100 to 230.174 issued under sec. 19, 48 Stat. 85, as amended; 15 U.S.C. 77s * * *

2. Section 230.503 is revised to read as follows:

§ 230.503 Filing of notice of sales.

(a) The issuer shall file with the Commission five copies of a notice on Form D (17 CFR 239.500) no later than 15 days after the first sale of securities in an offering under Regulation D.

(b) One copy of every notice on Form D shall be manually signed by a person duly authorized by the issuer.

(c) If sales are made under § 230.505, the notice shall contain an undertaking by the issuer to furnish to the Commission, upon the written request of its staff, the information furnished by the issuer under § 230.502(b)(2) to any purchaser that is not an accredited investor.

(d) Amendments to notices filed under paragraph (a) of this section need only report the issuer's name and the information required by Part C and any material change in the facts from those set forth in Parts A and B.

(e) A notice on Form D shall be considered filed with the Commission under paragraph (a) of this section.

(1) As of the date on which it is received at the Commission's principal office in Washington, DC; or

(2) As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's principal office in Washington, DC, if the notice is

delivered to such office after the date on which it is required to be filed.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. The authority citation for Part 239 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.* * * *

§ 239.500 [Amended]

4. By revising Form D described in § 239.500 as follows.

Note.—Form D does not appear in the Code of Federal Regulations.

By the Commission.

Jonathan G. Katz,

Secretary.

October 2, 1986.

BILLING CODE 8010-01-M

FORM D

OMB APPROVAL
OMB Number: 3235-0076 Expires: January 31, 1988

SEC USE ONLY	
Prefix	Serial
DATE RECEIVED	

U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

NOTICE OF SALE OF SECURITIES PURSUANT TO REGULATION D, SECTION 4(6), AND/OR UNIFORM LIMITED OFFERING EXEMPTION

Name of Offering (☐ check if this is an amendment and name has changed, and indicate change.)

Filing Under (Check box(es) that apply): ☐ Rule 504 ☐ Rule 505 ☐ Rule 506 ☐ Section 4(6) ☐ ULOE

Type of Filing: ☐ New Filing ☐ Amendment

A. BASIC IDENTIFICATION DATA

1. Enter the information requested about the issuer

Name of Issuer (☐ check if this is an amendment and name has changed, and indicate change.)

Address of Executive Offices (Number and Street, City, State, Zip Code)	Telephone Number (Including Area Code)
Address of Principal Business Operations (Number and Street, City, State, Zip Code) (if different from Executive Offices)	Telephone Number (Including Area Code)

Brief Description of Business

Type of Business Organization
☐ corporation ☐ limited partnership, already formed ☐ other (please specify):
☐ business trust ☐ limited partnership, to be formed

Actual or Estimated Date of Incorporation or Organization: Month ☐☐ Year ☐☐ ☐ Actual ☐ Estimated

Jurisdiction of Incorporation or Organization: (Enter two-letter U.S. Postal Service abbreviation for State: CN for Canada; FN for other foreign jurisdiction) ☐☐

GENERAL INSTRUCTIONS

Federal:

Who Must File: All issuers making an offering of securities in reliance on an exemption under Regulation D or Section 4(6), 17 CFR 230.501 et seq. or 15 U.S.C. 77d(6).

When To File: A notice must be filed no later than 15 days after the first sale of securities in the offering. A notice is deemed filed with the U.S. Securities and Exchange Commission (SEC) on the earlier of the date it is received by the SEC at the address given below or, if received at that address after the date on which it is due, on the date it was mailed by United States registered or certified mail to that address.

Where to File: U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies Required: Five (5) copies of this notice must be filed with the SEC, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

Information Required: A new filing must contain all information requested. Amendments need only report the name of the issuer and offering, any changes thereto, the information requested in Part C, and any material changes from the information previously supplied in Parts A and B. Part E and the Appendix need not be filed with the SEC.

Filing Fee: There is no federal filing fee.

State:

This notice shall be used to indicate reliance on the Uniform Limited Offering Exemption (ULOE) for sales of securities in those states that have adopted ULOE and that have adopted this form. Issuers relying on ULOE must file a separate notice with the Securities Administrator in each state where sales are to be, or have been made. If a state requires the payment of a fee as a precondition to the claim for the exemption, a fee in the proper amount shall accompany this form. This notice shall be filed in the appropriate states in accordance with state law. The Appendix to the notice constitutes a part of this notice and must be completed.

ATTENTION

Failure to file notice in the appropriate states will not result in a loss of the federal exemption. Conversely, failure to file the appropriate federal notice will not result in a loss of an available state exemption unless such exemption is predicated on the filing of a federal notice.

SEC 1972 (10-86)

A. BASIC IDENTIFICATION DATA

2. Enter the information requested for the following:

- Each promoter of the issuer, if the issuer has been organized within the past five years;
- Each beneficial owner having the power to vote or dispose, or direct the vote or disposition of, 10% or more of a class of equity securities of the issuer;
- Each executive officer and director of corporate issuers and of corporate general and managing partners of partnership issuers; and
- Each general and managing partner of partnership issuers.

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply: ☐ Promoter ☐ Beneficial Owner ☐ Executive Officer ☐ Director ☐ General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

(Use blank sheet, or copy and use additional copies of this sheet, as necessary.)

B. INFORMATION ABOUT OFFERING

1. Has the issuer sold, or does the issuer intend to sell, to non-accredited investors in this offering? .... Yes ☐ No ☐

Answer also in Appendix, Column 2, if filing under ULOE.

2. What is the minimum investment that will be accepted from any individual? .... $______

3. Does the offering permit joint ownership of a single unit? .... Yes ☐ No ☐

4. Enter the information requested for each person who has been or will be paid or given, directly or indirectly, any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in the offering. If a person to be listed is an associated person or agent of a broker or dealer registered with the SEC and/or with a state or states, list the name of the broker or dealer. If more than five (5) persons to be listed are associated persons of such a broker or dealer, you may set forth the information for that broker or dealer only..

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) .... ☐ All States

[AL]	[AK]	[AZ]	[AR]	[CA]	[CO]	[CT]	[DE]	[DC]	[FL]	[GA]	[HI]	[ID]
[IL]	[IN]	[IA]	[KS]	[KY]	[LA]	[ME]	[MD]	[MA]	[MI]	[MN]	[MS]	[MO]
[MT]	[NE]	[NV]	[NH]	[NJ]	[NM]	[NY]	[NC]	[ND]	[OH]	[OK]	[OR]	[PA]
[RI]	[SC]	[SD]	[TN]	[TX]	[UT]	[VT]	[VA]	[WA]	[WV]	[WI]	[WY]	[PR]

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) .... ☐ All States

[AL]	[AK]	[AZ]	[AR]	[CA]	[CO]	[CT]	[DE]	[DC]	[FL]	[GA]	[HI]	[ID]
[IL]	[IN]	[IA]	[KS]	[KY]	[LA]	[ME]	[MD]	[MA]	[MI]	[MN]	[MS]	[MO]
[MT]	[NE]	[NV]	[NH]	[NJ]	[NM]	[NY]	[NC]	[ND]	[OH]	[OK]	[OR]	[PA]
[RI]	[SC]	[SD]	[TN]	[TX]	[UT]	[VT]	[VA]	[WA]	[WV]	[WI]	[WY]	[PR]

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) .... ☐ All States

[AL]	[AK]	[AZ]	[AR]	[CA]	[CO]	[CT]	[DE]	[DC]	[FL]	[GA]	[HI]	[ID]
[IL]	[IN]	[IA]	[KS]	[KY]	[LA]	[ME]	[MD]	[MA]	[MI]	[MN]	[MS]	[MO]
[MT]	[NE]	[NV]	[NH]	[NJ]	[NM]	[NY]	[NC]	[ND]	[OH]	[OK]	[OR]	[PA]
[RI]	[SC]	[SD]	[TN]	[TX]	[UT]	[VT]	[VA]	[WA]	[WV]	[WI]	[WY]	[PR]

(Use blank sheet, or copy and use additional copies of this sheet, as necessary.)

C. OFFERING PRICE, NUMBER OF INVESTORS, EXPENSES AND USE OF PROCEEDS

1. Enter the aggregate offering price of securities included in this offering and the total amount already sold. Enter "0" if answer is "none" or "zero." If the transaction is an exchange offering, check this box ☐ and indicate in the columns below the amounts of the securities offered for exchange and already exchanged.

Type of Security	Aggregate Offering Price	Amount Already Sold
Debt	$______	$______
Equity	$______	$______
☐ Common ☐ Preferred		
Convertible Securities (including warrants)	$______	$______
Partnership Interests	$______	$______
Other (Specify ______)	$______	$______
Total	$______	$______

Answer also in Appendix, Column 3, if filing under ULOE.

2. Enter the number of accredited and non-accredited investors who have purchased securities in this offering and the aggregate dollar amounts of their purchases. For offerings under Rule 504, indicate the number of persons who have purchased securities and the aggregate dollar amount of their purchases on the total lines. Enter "0" if answer is "none" or "zero."

	Number Investors	Aggregate Dollar Amount of Purchases
Accredited Investors	______	$______
Non-accredited Investors	______	$______
Total (for filings under Rule 504 only)	______	$______

Answer also in Appendix, Column 4, if filing under ULOE.

3. If this filing is for an offering under Rule 504 or 505, enter the information requested for all securities sold by the issuer, to date, in offerings of the types indicated, in the twelve (12) months prior to the first sale of securities in this offering. Classify securities by type listed in Part C - Question 1.

Type of offering	Type of Security	Dollar Amount Sold
Rule 505	______	$______
Regulation A	______	$______
Rule 504	______	$______
Total	______	$______

4. a. Furnish a statement of all expenses in connection with the issuance and distribution of the securities in this offering. Exclude amounts relating solely to organization expenses of the issuer. The information may be given as subject to future contingencies. If the amount of an expenditure is not known, furnish an estimate and check the box to the left of the estimate.

Transfer Agent's Fees	☐	$______
Printing and Engraving Costs	☐	$______
Legal Fees	☐	$______
Accounting Fees	☐	$______
Engineering Fees	☐	$______
Sales Commissions (specify finders' fees separately)	☐	$______
Other Expenses (identify) ______	☐	$______
Total	☐	$______

C. OFFERING PRICE, NUMBER OF INVESTORS, EXPENSES AND USE OF PROCEEDS

b. Enter the difference between the aggregate offering price given in response to Part C - Question 1 and total expenses furnished in response to Part C - Question 4.a. This difference is the "adjusted gross proceeds to the issuer." ..... $_____

5. Indicate below the amount of the adjusted gross proceeds to the issuer used or proposed to be used for each of the purposes shown. If the amount for any purpose is not known, furnish an estimate and check the box to the left of the estimate. The total of the payments listed must equal the adjusted gross proceeds to the issuer set forth in response to Part C - Question 4.b above.

	Payments to Officers, Directors, & Affiliates	Payments To Others
Salaries and fees	☐ $_____	☐ $_____
Purchase of real estate	☐ $_____	☐ $_____
Purchase, rental or leasing and installation of machinery and equipment	☐ $_____	☐ $_____
Construction or leasing of plant buildings and facilities	☐ $_____	☐ $_____
Acquisition of other businesses (including the value of securities involved in this offering that may be used in exchange for the assets or securities of another issuer pursuant to a merger)	☐ $_____	☐ $_____
Repayment of indebtedness	☐ $_____	☐ $_____
Working capital	☐ $_____	☐ $_____
Other (specify): _____	☐ $_____	☐ $_____
_____	☐ $_____	☐ $_____
Column Totals	☐ $_____	☐ $_____
Total Payments Listed (column totals added)	☐ $_____	

D. FEDERAL SIGNATURE

The issuer has duly caused this notice to be signed by the undersigned duly authorized person. If this notice is filed under Rule 505, the following signature constitutes an undertaking by the issuer to furnish to the U.S. Securities and Exchange Commission, upon written request of its staff, the information furnished by the issuer to any non-accredited investor pursuant to paragraph (b)(2) of Rule 502.

Issuer (Print or Type)	Signature	Date
Name of Signer (Print or Type)	Title of Signer (Print or Type)	

ATTENTION

Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001.)

E. STATE SIGNATURE

1. Is any party described in 17 CFR 230.252(c), (d), (e) or (f) presently subject to any of the dissqualification provisions of such rule? ..... Yes ☐ No ☐

See Appendix, Column 5, for state response.

2. The undersigned issuer hereby undertakes to furnish to any state administrator of any state in which this notice is filed, a notice on Form D (17 CFR 239.500) at such times as required by state law.

3. The undersigned issuer hereby undertakes to furnish to the state administrators, upon written request, informatiion furnished by the issuer to offerees.

4. The undersigned issuer represents that the issuer is familiar with the conditions that must be satisfied to be entitled to the Uniform limited Offering Exemption (ULOE) of the state in which this notice is filed and understands that the issuer claiming the availability of this exemption has the burden of establishing that these conditions have been satisfied.

The issuer has read this notification and knows the contents to be true and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

Issuer (Print or Type)	Signature	Date
Name (Print or Type)	Title (Print or Type)	

Instruction:
Print the name and title of the signing representative under his signature for the state portion of this form. One copy of every notice on Form D must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

APPENDIX

1	2		3	4				5	
	Intend to sell to non-accredited investors in State (Part B-Item 1)		Type of security and aggregate offering price offered in state (Part C-Item1)	Type of investor and amount purchased in State (Part C-Item 2)				Disqualification under State ULOE (if yes, attach explanation of waiver granted) (Part E-Item1)	
State	Yes	No		Number of Accredited Investors	Amount	Number of Non-Accredited Investors	Amount	Yes	No
AL									
AK									
AZ									
AR									
CA									
CO									
CT									
DE									
DC									
FL									
GA									
HI									
ID									
IL									
IN									
IA									
KS									
KY									
LA									
ME									
MD									
MA									
MI									
MN									
MS									
MO									

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APPENDIX

1	2		3	4				5	
	Intend to sell to non-accredited investors in State (Part B-Item 1)		Type of security and aggregate offering price offered in state (Part C-Item1)	Type of investor and amount purchased in State (Part C-Item 2)				Disqualification under State ULOE (if yes, attach explanation of waiver granted) (Part E-Item1)	
State	Yes	No		Number of Accredited Investors	Amount	Number of Non-Accredited Investors	Amount	Yes	No
MT									
NE									
NV									
NH									
NJ									
NM									
NY									
NC									
ND									
OH									
OK									
OR									
PA									
RI									
SC									
SD									
TN									
TX									
UT									
VT									
VA									
WA									
WV									
WI									
WY									
PR									

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[FR Doc. 86–22822 Filed 10–9–86; 8:45 am]
BILLING CODE 8010-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin, Bacitracin Methylene Disalicylate, Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of Elanco's new animal drug application (NADA) for combining individually approved monensin, bacitracin methylene disalicylate, and roxarsone Type A articles to make Type C broiler feeds to identify a second approved source of roxarsone, Salsbury Labs.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, is the sponsor of NADA 49-464 approved July 28, 1978 (43 FR 32750). The NADA provides for combining previously approved monensin, bacitracin methylene disalicylate, and roxarsone Type A articles to prepare a Type C broiler feed. The regulation failed to indicate that Salsbury Labs. was also a source of roxarsone used to make the Type C feed. The regulations are amended to provide for the additional approved drug source.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.355 [Amended]

2. Section 558.355 *Monensin* is amended in paragraph (f)(1)(xii)(*b*) by revising the phrase "as roxarsone provided by No. 011801 in § 510.600 of this chapter." to read "as roxarsone provided by Nos. 011801 or 017210 in § 510.600 of this chapter."

Dated: October 6, 1986.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

[FR Doc. 86-23001 Filed 10-9-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 46 and 602

[T.D. 8102]

Excise Tax Imposed on the Issuer of Registration-Required Obligation Not in Registered Form

Correction

In FR Doc. 86-21442, beginning on page 33593, in the issue of Monday, September 22, 1986, make the following corrections:

On page 33594, in the first column, eleventh line, the first word should read. "or", and

§ 46.4701-1 [Corrected]

On the same page, in the third column, in § 46.4701-1, paragraph (b)(6)(ii), in the third line, after "the" insert the words "date the".

BILLING CODE 1505-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 19

[T.D. ATF-237; Re: Notice No. 580]

Labeling of Distilled Spirits in Percent-Alcohol-by-Volume

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: On January 24, 1986, the Bureau of Alcohol, Tobacco and Firearms (ATF) proposed (at 51 FR 3208) to amend regulations in 27 CFR Parts 5 and 19 to provide for labeling and advertising the alcohol content of distilled spirits products in percent-alcohol-by-volume rather than in proof. The notice of proposed rulemaking, Notice No. 580, was based on a petition submitted by Joseph E. Seagram and Sons, Inc. This final rule adopts the proposed rule with minor modifications and with a transition period of two years.

EFFECTIVE DATE: Amendatory paragraphs 2A, 3A, 7A and 8A are effective November 10, 1986. Amendatory paragraphs 2B, 3B, 4, 6, 7B, 8B and 9 are effective October 10, 1988.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine, and Beer Branch, (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

The alcohol content is specifically required to be shown on labels and in advertisements of distilled spirits products under 27 U.S.C 205 (e) and (f). The purpose of this requirement, stated in this section, is to ". . . provide the consumer with adequate information as to the identity and quality of the products, [including] the alcoholic content thereof . . .". The alcohol content is also required to be shown on labels of distilled spirits products under the authority conferred by 26 U.S.C 5301(a). This section reads, in part, "Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him . . . to regulate the kind, size, branding, marking, . . . of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits . . .".

Since the repeal of Prohibition, ATF and its predecessor agencies have regulated the labeling and advertising of the alcohol content of distilled spirits products by requiring a statement expressed in degrees of proof. (Degrees of proof are equal to the percent-alcohol-by-volume multiplied by two). This requirement, unchanged for 50 years, was also the conventional method of labeling and advertising the alcohol content of distilled spirits products before Prohibition. Branding and marking requirements are expressed in proof on labels of distilled spirits because the tax is imposed on the basis of proof.

The previous regulations, 27 CFR 5.37, 5.63, and 19.643, required proof statements on labels and in advertisments of distilled spirits, except that the alcohol content could be stated in percent-alcohol-by-volume on labels for liqueurs, cordials, bitters, cocktails, highballs, or other such specialties.

Petition

Joseph E. Seagram & Son, Inc. petitioned ATF to amend 27 CFR 5.37, relating to the alcohol content statement on labels of distilled spirits. Seagram petitioned for a statement of percent-alcohol-by-volume to replace the use of proof statements on labels of distilled

spirits. ATF proposed this change in Notice No. 580, published in the Federal Register of January 24, 1986, at 51 FR 3208. ATF also proposed to amend the similar labeling requirement in 27 CFR 19.643, and the mandatory advertising statement of alcohol content in 27 CFR 5.63.

Discussion

In the November 1980 Report to the President and the Congress on *Health Hazards Associated with Alcohol and Methods to Inform the General Public of these Hazards*, submitted by the Treasury Department and the Department of Health and Human Services, the Treasury Department was in favor of labeling distilled spirits in percent-alcohol-by-volume.

In the ATF Quarterly Bulletin, A.T.F.Q.B. 1985–2, Page 71, ATF announced that statements of percent alcohol-by-volume may now appear on labels of all distilled spirits products, as *additional*, truthful information. This announcement reversed a long-standing label approval policy, and partially implemented the Seagram's petition and the November 1980 Report to the President and the Congress, mentioned above.

Other Requirements to Label Proof. In Notice No. 580, ATF specifically did not consider the amendment of regulations on marking requirements for cases, bulk containers (including barrels used for aging spirits), or bottles of industrial alcohol used by hospitals, universities, or manufacturers of food products or medicinal preparations. These regulations require that some containers of distilled spirits be marked to show the proof of the product. In general, these are the containers on which taxes are determined. Since taxes are imposed on the basis of proof, as previously discussed, these requirements are oriented toward protection of the revenue.

Moreover, these marking requirements have little or no impact on consumers. Although whole cases of distilled spirits are sometimes purchased by consumers, ATF does not generally consider a case to be a consumer container. Therefore, ATF did not propose to amend the marking requirements for these containers.

Public Comments

In response to Notice No. 580, ATF received 23 comments, as follows: 17 in favor, 5 opposed, 1 no preference. Demographically, the commenters were: 8 bottlers of distilled spirits products, 6 consumers, 5 trade associations, 3 government agencies, and 1 importer of distilled spirits products. Based on this response, and based on the Treasury Department's previous report to the President and the Congress in favor of making this change, ATF is adopting the proposed rule, modified as discussed below.

Four commenters, R.E. Welch, State of Idaho Liquor Dispensary, Washington State Liquor Control Board, and Scotch Whisky Association, suggested that there should be a transition period during which the alcohol content is expressed in both forms, to educate consumers. In drafting Notice No. 580, ATF considered but rejected this idea, since it would require two label changes. Also, as previously discussed, importers and bottlers are already allowed to show the alcohol content in both forms, if desired. At a later date, importers and bottlers may choose to drop the proof statement which is being made optional in this final rule.

In Notice No. 580, ATF requested comments on the following question: If percentage statements replace proof statements, how long should the transition period be? Seven commenters addressed this question, including four bottlers of distilled spirits who are directly affected by this aspect of the proposed change. Their comments are as follows: R.E. Welch and Consolidated Distilled Products, Inc. were in favor of a five-year transition. Consolidated stated that some small bottlers frequently purchase label stocks of up to a five to ten year supply. The Washington State Liquor Control Board was in favor of a two-year transition period during which the alcohol content is expressed in both forms, to help educate the consumer. Brown-Forman Corp. was in favor of an 18-month transition period, if an open-ended transition period could not be allowed. Scotch Whisky Association was in favor of a 12- to 18-month transition period. Ed Phillips & Sons was in favor of a transition period of one year. ISC Wines of California was in favor of a transition period which is "long enough that suppliers are able to use up existing labels."

Implementation

Transition period. ATF has decided to implement the new requirement in two years. ATF believes that this period is long enough for industry members to make the conversion with little or no waste of obsolete labels. A two-year period will also minimize the confusion caused by having two styles of labels on retail shelves.

Use of Both Forms in Direct Conjunction. The proposed rule allowed the alcohol content to be expressed in both forms. The final rule adopts this proposal with the additional requirement that both forms, if shown, must be in direct conjunction with each other. Without this requirement, a consumer could be confused if he/she found "80° proof" on one part of the label and "40 percent-alcohol-by-volume" elsewhere on the same label. The requirement for direct conjunction dispels possible consumer confusion, and shows the consumer that the two expressions of alcohol content mean the same thing. To emphasize the fact that both expressions of alcohol content mean the same thing, the optional statement in degrees of proof must be placed in parentheses, in brackets, or otherwise distinguished from the mandatory percent-alcohol-by-volume statement.

Revision of 27 CFR 19.643. Notice No. 580 proposed to amend 27 CFR 19.643 by replacing the first sentence with two sentences. Based on the modifications of the proposed rule discussed above, ATF is completely revising this section for clarity by adding designated paragraphs to separate the several label statements required by the section.

Amendment of §§ 19.386, 19.395, and 19.750. Notice No. 580 did not propose to amend §§ 19.386, 19.395, or 19.750. These sections relate to labels for spirits bottled for export and bottling line tests of alcohol content. ATF believes that these sections should also be amended to remove references to measurement of alcohol content in proof.

Incorporation of Revenue Ruling 55–494. Amendment of all regulations on labeling alcohol content enables ATF to incorporate Revenue Ruling 55–494, which requires a special label statement of alcohol content for "Rock and Rye" and similar products. These products contain a significant amount of fruit or other solid material in the bottle. As a result, the alcohol content of the liquid portion reduces over time. Therefore, this ruling was issued to require that the label show the alcohol content at the time the product is bottled, as follows: "Bottled at ——— proof." The substance of this ruling is incorporated in each section which requires the labeling alcohol content. Revenue Ruling 55–494, I.R.C.B. 1955–2, 736, is hereby declared obsolete on the effective date of this final rule.

New Label Approval Not Required. Labels may be changed to implement this final rule without submission of the revised labels for approval by ATF. The same mandatory requirements of 27 CFR 5.33 (size, color contrast, etc.) shall apply to labels revised with the new alcohol content statement expressed in percent-alcohol-by-volume.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse affect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to display information on labels of distilled spirits, proposed in this notice, were submitted to the Office of Management and Budget for review under sec. 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35. The Office of Management and Budget had previously assigned control number 1512-0482 to the collection of information which included labeling and advertising requirements. That collection of information is hereby modified by this final rule.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

PART 5—[AMENDED]

27 CFR Part 5—Labeling and Advertising of Distilled Spirits is amended as follows:

1. The authority citation for Part 5 continues to read as follows:

Authority: 27 U.S.C. 205.

2A. Section 5.37 is amended by revising paragraph (a) to read as follows:

§ 5.37 Alcoholic content.

(a) *Statement.* The alcohol content for distilled spirits shall be stated in proof or in percent-alcohol-by-volume. Products such as "Rock and Rye" or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at _____ percent-alcohol-by-volume" or "Bottled at _____ proof".

* * * * *

2B. Effective on October 10, 1988, § 5.37 is revised to read as follows:

§ 5.37 Alcohol content.

(a) *Statements.* (1) *Mandatory statement.* The alcohol content for distilled spirits shall be stated in percent-alcohol-by-volume. Products such as "Rock and Rye. or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at _____ percent-alcohol-by-volume."

(2) *Optional statement.* In addition, the label may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(b) *Tolerances.* The following tolerances shall be allowed (without affecting the labeled statement of alcohol content) for losses of alcohol content occurring during bottling:

(1) Not to exceed 0.25 percent-alcohol-by-volume for spirits containing solids in excess of 600 mg per 100 ml; or

(2) Not to exceed 0.15 percent-alcohol-by-volume for all other spirits.

(Approved by the Office of Management and Budget under Control Number 1512-0482)

Authority: Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5301(a)); 49 Stat. 917, as amended (27 U.S.C. 205(e)).

3A. Paragraph (c) of § 5.63 is revised to read as follows:

§ 5.63 Mandatory statements.

* * * * *

(c) *Alcoholic content.* The alcohol content for distilled spirits shall be stated in proof or in percent-alcohol-by-volume. Products such as "Rock and Rye" or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at _____ percent-alcohol-by-volume" or "Bottled at _____ proof".

* * * * *

3B. Effective on October 10, 1988, paragraph (c) of § 5.63 is revised to read as follows:

§ 5.63 Mandatory statements.

* * * * *

(c) *Alcohol content.* (1) *Mandatory statement.* The alcohol content for distilled spirits shall be stated in percent-alcohol-by-volume. Products such as "Rock and Rye" or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at _____ percent-alcohol-by-volume."

(2) *Optional statement.* In addition, the advertisement may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize

the fact that both expressions of alcohol content mean the same thing.

* * * * *

PART 19—[AMENDED]

27 CFR Part 19—Distilled Spirits Plants is amended as follows:

4. Effective on October 10, 1988, the table of sections for Part 19 is amended by revising the headings of §§ 19.386 and 19.750 to read as follows:

Sec.

* * * * *

19.386 Alcohol content and fill.

* * * * *

19.750 Records of alcohol content and fill tests.

* * * * *

5. The authority citation for Part 19 continues to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065 6109, 6302, 6311, 6676, 7510; 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

6. Effective on October 10, 1988, § 19.386 is revised to read as follows:

§ 19.386 Alcohol content and fill.

(a) *General.* (1) Proprietors shall test and examine at representative intervals spirits bottled during bottling operations to determine whether the bottled spirits agree in alcohol content and quantity (fill) with that stated on the label or bottle.

(2) If the regional director (compliance) finds that a proprietor's test procedures do not protect the revenue and ensure label accuracy of the bottled product, he or she may require corrective measures.

(b) *Variations in alcohol content and fill.* The proprietor shall rebottle, recondition or relabel spirits if the bottle contents do not agree with the respective data on the label or bottle as to:

(1) Quantity (fill), except for such variation as may occur in filling conducted in compliance with good commercial practice with an overall objective of maintaining 100 percent fill for spirits bottled; and/or

(2) Alcohol content, subject to a normal drop in alcohol content occurring during bottling operations not to exceed 0.25 percent-alcohol-by-volume for products containing solids in excess of 600 mg per 100 ml, or 0.15 percent-alcohol-by-volume for all other spirits. For example, a product with a solids content of less than 600 mg per 100 ml, labeled as containing 40 percent-alcohol-by-volume, would be acceptable if the test for alcohol content found that it contained 39.85 percent-alcohol-by-volume.

(c) *Records.* Proprietors shall record the results of all tests of alcohol content and quantity (fill) in the record required by § 19.750.

Authority: Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1394, as amended (26 U.S.C. 5201, 5301).

7A. Paragraph (b) of § 19.395 is revised to read as follows:

§ 19.395 Labels for export spirits.

* * * * *

(b) Proof or percent-alcohol-by-volume of the spirits;

* * * * *

7B. Effective on October 10, 1988, paragraph (b) of § 19.395 is revised to read as follows:

§ 19.395 Labels for export spirits.

* * * * *

(b) Percent-alcohol-by-volume of the spirits;

* * * * *

8A. The first sentence of § 19.643 is replaced by the following two sentences which read as follows:

§ 19.643 Brand name, kind, alcohol content, and State of distillation.

The brand name, kind as set out in 27 CFR Part 5, and alcohol content, expressed in proof or in percent-alcohol-by-volume, shall be shown on the label. Products such as "Rock and Rye" or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at _____ percent-alcohol-by-volume" or "Bottled at _____ proof. * * *"

8B. Effective on October 10, 1988, § 19.643 is revised to read as follows:

§ 19.643 Brand name, kind, alcohol content, and State of distillation.

(a) *Brand name and kind.* The label of distilled spirits shall state the brand name and kind, as set out in 27 CFR Part 5.

(b) *Alcohol content.* (1) *Mandatory statement.* The label of distilled spirits shall state the alcohol content in percent-alcohol-by-volume. Products such as "Rock and Rye" or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: "Bottled at _____ percent-alcohol-by-volume."

(2) *Optional statement.* In addition, the label may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(c) *State of distillation.* (1) *Mandatory statement.* If a whisky produced in the United States was not produced in the State shown on the label, the label shall show the State of distillation, except as provided by paragraph (c)(2) or (c)(3) of this section. The Director may, however, require the State of distillation to be shown on the label or permit such other labeling as may be necessary to preclude any misleading or deceptive impression which might otherwise be created as to the actual State of distillation.

(2) *Exceptions.* The State of distillation is not required to be shown on labels of "blended whisky", "a blend of straight whiskies", "spirit whisky", "light whisky", or "blended light whisky". The State of distillation may be prohibited on certain labels of "light whisky" or "blended light whisky", in accordance with paragraph (c)(3) of this section.

(3) *Prohibited statement.* The State of distillation may not be shown, except as part of the name and address required by 27 CFR 5.36(a), on labels of "light whisky" or "blended light whisky" produced in a State which the Director finds to be associated by consumers with an American type whisky.

Authority: Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended (26 U.S.C. 5201).

9. Effective on October 10, 1986, § 19.750 is revised to read as follows:

§ 19.750 Records of alcohol content and fill tests.

(a) Proprietors shall record the results of all tests of alcohol content and quantity (fill) conducted.

(b) The record shall be maintained in a manner and provide information that will enable ATF officers to determine whether the proprietor has complied with the provisions of § 19.386 by:

(1) Monitoring operations by conducting alcohol content and fill tests; and

(2) Employing procedures to correct variations in alcohol content and fill.

(c) Alcohol content and fill test records shall contain, at a minimum, the following information:

(1) Date and time of test;
(2) Bottling tank number;
(3) Serial number of bottling record;
(4) Bottling line designation;
(5) Size of bottle;
(6) Number of bottles tested;
(7) Labeled alcohol content;
(8) Alcohol content found by the test;
(9) Percentage of variation from 100 percent fill; and
(10) Corrective action taken, if any.

Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5555); Sec. 807(a), Pub. L. 96–39 (26 U.S.C. 5207).

Signed:
W.T. Drake,
Acting Director.
September 8, 1986.
Approved:
Francis A. Keating II,
Assistant Secretary (Enforcement).
September 26, 1986.
[FR Doc. 86–22969 Filed 10–9–86; 8:45 am]
BILLING CODE 4810–31–M

27 CFR Part 9

[T.D. ATF–240 Re: Notice No. 585]

North Fork of Long Island Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area known as the North Fork of Long Island, located in Suffolk County in eastern Long Island, New York. The viticultural area includes all of the land areas in the Townships of Riverhead, Shelter Island and Southold. The petition was submitted by a group of Long Island grape growers and bonded winery owners located within the boundaries of the viticultural area. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase. It will also allow wineries to better designate the specific grape-growing area where their wines come from.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, ATF Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations also allow the name and location of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1) Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF was petitioned for the North Fork of Long Island viticultural area by the Long Island Grape Growers Association located in Riverhead, New York. Just across the bay (south) from the North Fork of Long Island viticultural area is The Hamptons, Long Island viticultural area. The area includes all of the land in the (South Fork) Townships of Southampton and East Hampton.

The North Fork of Long Island viticultural area consists of the Townships of Riverhead, Shelter Island and Southold (including all mainland and island areas). The total area of this viticultural area consists of 158.5 square miles or 101,440 acres of land. There are 5 bonded wineries operating within the viticultural area.

The basis for approval of this viticultural area was supported by the following evidence that was submitted by the petitioner:

Evidence of Name

The name North Fork is locally used to describe the land area on the North Shore of Long Island beginning at Riverhead Township and extending east for approximately 40 miles to Orient Point. This description is supported by many publications, businesses, and landmarks which use the name North Fork to distinguish this region from the rest of Long Island.

Evidence of Boundaries

The geographic area of the North Fork, although attached to a larger island, is a peninsula. This is due to the fact that three of its boundaries are surrounded by water; the Long Island Sound to the north, the Peconic Bay to the south, and the Atlantic Ocean to the east. The western boundary is the 6.5 mile long boundary, line separating Brookhaven and Riverhead Townships. The North Fork is 6 miles wide at its widest point and less than .5 mile wide at its narrowest point. The townships of Riverhead (78 square miles), Shelter Island (11.5 square miles) and Southold (69 square miles) make up the total area of the viticultural area. Shelter Island, although a separate land area from the mainland of Long Island, was included in the boundaries of the North Fork of Long Island viticultural area because of its immediate proximity to the mainland. Also, another reason for its inclusion in the viticultural area is because it is composed of soil associations and climate conditions similar to those on the North Fork of Long Island.

The boundaries of the "North Fork of Long Island" viticultural area may be found on five U.S.G.S. maps. Having verified the boundaries, ATF agrees that they meet the requirements for approval of the "North Fork of Long Island" as an American viticultural area.

Area History

The petitioner provided documentation that grape growing and limited wine production on the North Fork dates back to the settlement of the area. But more noteworthy, it was not until recent years that there have been commercial vineyards on the North Fork of Long Island, some of which are vinifera bearing. The total grape acreage on the North Fork is approximately 1000

acres, with more plantings scheduled for the future.

Evidence of Geographical Characteristics

Climate

The major distinct geographical characteristic of the North Fork when comparing it with the surrounding area is its climate. More specifically, it is the sea that surrounds the North Fork which makes it a distinct grape growing area. The surrounding waters render the viticultural area more temperate than many other places in the same latitude in the interior. The viticultural area is regularly fanned by a breeze coming off the surrounding waters. The air modulates the heat in the summer and the cold in the winter.

The climate classification of the North Fork is "humid continental." The North Fork climate is greatly influenced by the Atlantic Ocean. The ocean breezes over the viticultural area extend the period of freeze-free temperatures, reduce the range of daily and annual temperatures, and increase the amount of winter precipitation relative to summer.

Although the North and South Forks of Long Island are relatively close together, there are many climatic differences which exist between these two areas. These differences are due to the unique topography of the eastern end of Long Island and the relationship of the two forks to the Atlantic Ocean and the Long Island Sound.

The single most important difference between the North Fork and South Fork is the number of days between the spring and fall frosts. In data taken from local weather stations, for the period 1973–1983, the growing season averages 195 days at Riverhead (North Fork), 201 days at Greenport (North Fork) and 188 days at Bridgehampton (South Fork). In 7 out of 11 years recorded, there was anywhere from 1 to over 3 weeks longer growing season on the North Fork as compared to the South Fork.

The climate on the rest of Long Island is also significantly different from the climate of the North Fork. The following data shows the differences in growing seasons that can occur from eastern Long Island to New York City.

Days of Growing Season 1973–1982 Averages

Riverhead (North Fork)	194
Bridgehampton (South Fork)	184
Brookhaven Lab (10 miles west of North Fork)	152
Patchogue (20 miles southwest of North Fork)	177
Mineola (50 miles west of North Fork)	206
Central Park NYC (60 miles west of North Fork)	222

The Long Island Sound, Atlantic Ocean, and bay areas are the main reasons for the North Fork's buffered climate. As the forks merge into the main body of Long Island, the effect of these waters is greatly diminished, especially with southwest winds prevailing. This is evident in the previous data for both Brookhaven and Patchogue. Brookhaven, located 10 miles west of the North Fork, can have as much as 50 days less growing season than Riverhead. Patchogue (located on the south shore about 20 miles from the North Fork) can also be seen to be as much as 45 days less, with most seasons being around 1–2 weeks less than Riverhead. The data given for Mineola (a large suburban area in Nassau County about 50 miles west) and Central Park-New York City (located 60 miles west), show the increasing effect of the buffering ocean winds as the western end of the island begins to narrow once again. A great deal of the effect as well, is due to the great amount of industrial warmth supplied from what is mostly an urban area.

Soils

The second distinctive characteristic of the North Fork is its soils. The North Fork has distinctly different soil types than the South Fork (The Hamptons). The difference in soil types begins north of the Peconic River and continues eastward toward Orient Point. The major soil types are found on the North Fork as follows:

1. *Carver-Plymouth-Riverhead Association.*
2. *Haven-Riverhead Association.*
3. *Montauk-Haven-Riverhead Association.*

The soils of the South Fork (The Hamptons), on the other hand, are somewhat different, and many more associations are present:

1. *Plymouth-Carver Association.*
2. *Bridgehampton-Haven Association.*
3. *Montauk-Montauk, Sandy Variant-Bridgehampton Association.*
4. *Montauk, Sandy Variant-Plymouth Association.*
5. *Montauk-Haven-Riverhead Association.*

The remainder of the soils on the South Fork consist of the Dune Land-Tidal Marsh-Beach Association, which make up the beach and marshland areas. At the Town of Brookhaven/Riverhead boundary line where the forks meet, there is still some slight separation of the different soils associations. Westward from here and into New York City, the soil associations become even more foreign to those found on the eastern end of Long Island. While various soil types found in western Long Island may be similar to those found on the North Fork, the encroachment of suburban development and industry on Long Island has made commercial agriculture and land available for it, almost nonexistent in the townships west of Brookhaven.

In general, the soils of the North Fork contain a smaller percentage of silt and loam than the soils found on the South Fork (The Hamptons). This accounts for the fact that South Fork soils have a greater water-holding capacity than North Fork soils and they require less irrigation. The soils of the North Fork are also generally slightly higher in natural fertility than the soils of the South Fork.

Based on the previous evidence, ATF agrees that one of the major geographical features of the North Fork is its distinct soils, which are different from soils of the surrounding area.

Discussion of Comments

On March 21, 1986, Notice No. 585 was published in the **Federal Register** with a 45-day comment period. In that notice ATF invited comments from all interested parties regarding the proposal to establish "The North Fork of Long Island" viticultural area. No comments were received from the public during the comment period.

Conclusion

To summarize, it is important that the specific grape growing areas of Long Island be recognized and set apart from one another in order to maintain individuality and also to inform the consumer. The evidence presented in the petition and the notice of proposed rulemaking supports the fact that the North Fork of Long Island region has within its boundaries distinct and unique grape growing conditions which entitle it to be a separate American viticultural area.

On the basis of the evidence provided by the petitioner, ATF finds "The North Fork of Long Island" viticultural area to be a delimited grape growing region distinguishable by geographical features.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because the proposal is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance

burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule, will not have a significant economic impact or impose compliance burdens on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR. Part 1320, do not apply to this final rule because no requirement to collect information is proposed.

Miscellaneous

ATF does not wish to give the impression by approving "The North Fork of Long Island" as a viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "The North Fork of Long Island."

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Viticultural areas, Consumer protection, Wine.

Drafting Information

The principal author of this document is Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

PART 9—[AMENDED]

27 CFR Part 9—American Viticultural Areas is amended as follows:

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of contents in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.113 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.113 North Fork of Long Island.

Par. 3. Subpart C, is amended by adding § 9.113 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.113 North Fork of Long Island.

(a) *Name.* The name of the viticultural area described in this section is "North Fork of Long Island."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the "North Fork of Long Island" viticultural area are 5 U.S.G.S. maps. They are entitled:

(1) Wading River, N.Y., 7.5 minute series, scaled at 1:24,000 edition of 1967.

(2) Riverhead, N.Y., 7.5 minute series, scaled at 1:24,000, edition of 1956.

(3) New York, N.Y.; N.J.; Conn., U.S., 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979.

(4) Providence, R.I.; Mass.; Conn., N.Y., U.S., 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969.

(5) Hartford, Conn.; N.Y.; N.J.; Mass., U.S., 1:250,000 series, scaled at 1,250,000, edition of 1962, revised 1975.

(c) *Boundaries.* The boundaries of the proposed viticultural area are as follows: The North Fork of Long Island viticultural area is located entirely within eastern Suffolk County, Long Island, New York. The viticultural area boundaries consist of all of the land areas of the North Fork of Long Island, New York, including all of the mainland, shorelines and islands in the Townships of Riverhead, Shelter Island, and Southold.

(1) The point of beginning is on the Wading River, N.Y., 7.5 minute series, U.S.G.S. map at the northern boundary of the Brookhaven/Riverhead Township line on the Long Island Sound (approximately 500 feet east of the mouth of the Wading River);

(2) The boundary goes south on the Brookhaven/Riverhead Town line for approximately 6.5 miles until it meets the Peconic River approximately 1 mile east of U.S. Reservation Brookhaven National Laboratory;

(3) Then the boundary travels east on the Peconic River (Brookhaven/Riverhead Town line) for 2.7 miles until it meets the Riverhead/Southampton Township line on the Riverhead, N.Y., U.S.G.S. map;

(4) It then goes east on the Riverhead/Southampton Township line for 4.2 miles until it reaches an area where the Peconic River widens north of Flanders;

(5) Then the boundary proceeds east to Orient Point then west along the shoreline, beaches, islands, and mainland areas of the North Fork of Long Island, described on the "New York," "Providence," and "Hartford" U.S.G.S. maps until it reaches the Brookhaven/Riverhead Township line at the point of beginning. These boundaries consist of all the land (and isolated islands including without limitation, Wicopesset Island, Robins Island, Fishers Island, Great Gull Island, Plum Island, and Shelter Island) in the Townships of Riverhead, Shelter Island, and Southold.

Signed: September 10, 1986.

Stephen E. Higgins,

Director.

Approved: September 23, 1986.

Michael H. Lane,

Deputy Assistant Secretary, Regulatory, Trade and Tariff Enforcement.

[FR Doc. 86–22968 Filed 10–9–86; 8:45 am]

BILLING CODE 4810–31–M

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27 CFR Part 9

[T.D. ATF–238; Ref. Notice No. 593]

Bell Mountain Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) has decided to establish a viticultural area in Texas to be known as "Bell Mountain." This decision is the result of a petition submitted by Mr. Robert P. Oberhelman, a grape grower in the area. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising enables winemakers to label wines more precisely and helps consumers to better identify the wines they purchase.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue,

NW., Washington, DC 20226, (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

ATF received a petition from Mr. Robert P. Oberhelman, president of Oberhellmann Vineyards, proposing an area in Gillespie County, Texas, as a viticultural area to be known as "Bell Mountain." The area contains about 5 square miles and is located along the southern and southwestern slopes of Bell Mountain, about 15 miles north of Fredericksburg, Texas. The area's winegrape acreage consists of about 45 acres on two vineyards. There is one bonded winery operating within the area.

Notice of Proposed Rulemaking

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 593, in the **Federal Register** on Tuesday, June 3, 1986 (51 FR 19854). That notice proposed establishment of the "Bell Mountain" viticultural area and solicited public comment concerning the proposal.

No comments have been received. Therefore, this document establishes the "Bell Mountain" viticultural area without change from the proposal in Notice No. 593.

Name of the Area

The following evidence, submitted by the petitioner, establishes that the new viticultural area is known by the name of "Bell Mountain":

(a) The mountain on which the viticultural area is located was first given the name "Bell Mountain" by early settlers of the area in the mid nineteenth century.

(b) The mountain has been labeled with this name on maps of the U.S. Geological Service since 1885, when the first such map was published for the area. At an elevation of 1,956 feet, Bell Mountain is the highest point in the local area.

Geography of the Area

The following evidence shows that the new viticultural area is distinguished geographically from the surrounding areas:

(a) To the north and northeast, the area is distinguished by the steepness of the mountain slopes outside the boundaries of the area. Further, soil conditions outside the area preclude viticulture on those other slopes of Bell Mountain. The petition states: "The granite protrudes through the ground surface profusely on the Peak's northern slope, therefore making tillage impossible. For this reason, only the slopes to the south and southwest are included in the boundary of the proposed Viticultural Area."

(b) In other directions, the viticultural area is distinguished by soil types and by the topographical limits of the slopes of Bell Mountain. With respect to soil, the petition states as follows:

> The soils within the boundaries of the proposed Viticultural Area are identified on the map as "pp-Pedernales-Pontotoc Association". The description reads "Non-Calcareous, sandy, loam soils, with light sandy clay subsoil. Udic Palenstalfs; Typic Rhodustaifs". These soils are unique in the general area referred to as the "Hill Country" or the Edwards Plateau in that they are slightly acid, whereas most of the soils are calcareous, or lime-bearing.

In support of this statement, the petitioner submitted a copy of a soil map from the book, *Eastern Hill Country Resource Conservation & Development Project*, published by the U.S. Department of Agriculture in 1968. This map shows that the proposed viticultural area boundaries correspond approximately to the limits of the area with soils of the Pedernales-Pontotoc Association. This is the only occurrence of these soils shown anywhere on that map.

(c) In addition, the petition states that "The area is drier than the Pedernales valley to its south and the Llano valley to its north. It is also cooler due to its elevation, and constant breezes."

Boundaries of the Area

The boundaries of the "Bell Mountain" viticultural area may be found on one U.S.G.S. map of the 7.5 minute series, titled Willow City Quadrangle. The boundaries are described in new § 9.55, as added by this Treasury decision.

Miscellaneous

ATF does not want to give the impression by approving "Bell Mountain" as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct but not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage can only come from consumer acceptance of "Bell Mountain" wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule, because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities. Further, the final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, the Bureau has determined that this final rule is not a major rule, since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule, because no

requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is Mr. Steve Simon of the FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Issuance

Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph A. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. B. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.55, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.55 Bell Mountain.

* * * * *

Par. C. Subpart C of 27 CFR Part 9 is amended by adding § 9.55, which reads as follows:

§ 9.55 Bell Mountain.

(a) *Name.* The name of the viticultural area described in this section is "Bell Mountain."

(b) *Approved map.* The appropriate map for determining the boundaries of the Bell Mountain viticultural area is one U.S.G.S. map, titled: Willow City Quadrangle, 7.5 minute series, 1967.

(c) *Boundary*—(1) *General.* The Bell Mountain viticultural area is located in Gillespie County, Texas. The starting point of the following boundary description is the summit of Bell Mountain (1,956 feet).

(2) *Boundary Description*—(i) From the starting point, the boundary proceeds due southward for exactly one half mile;

(ii) Then southeastward in a straight line to the intersection of Willow City Loop Road with an unnamed unimproved road, where marked with an elevation of 1,773 feet;

(iii) Then generally southward along Willow City Loop Road (a light-duty road) to Willow City.

(iv) Then continuing southward and westward along the same light-duty road to the intersection having an elevation of 1,664 feet;

(v) Then continuing westward along the light-duty road to the intersection having an elevation of 1,702 feet;

(vi) Then turning southward along the light-duty road to the intersection having an elevation of 1,736 feet;

(vii) Then turning westward along the light-duty road to the intersection having an elevation of 1,784 feet;

(viii) Then turning southward and then westward, following the light-duty road to its intersection with Texas Highway 16, where marked with an elevation of 1,792 feet;

(ix) Then due westward to the longitude line 98° 45';

(x) Then northward along that longitude line to a point due west of an unnamed peak with an elevation of 1,784 feet;

(xi) Then due eastward to the summit of that unnamed peak;

(xii) Then in a straight line eastward to the intersection of an unnamed unimproved road with Texas Highway 16, where marked with an elevation of 1,822 feet;

(xiii) Then following that unnamed road, taking the right-hand fork at an intersection, to a point due west of the summit of Bell Mountain;

(xiv) Then due eastward to the summit of Bell Mountain.

Signed: September 11, 1986.

Stephen E. Higgins,

Director.

Approved: September 23, 1986.

Michael H. Lane,

Deputy Assistant Secretary, Regulatory, Trade, and Tariff Enforcement.

[FR Doc 86-22967 Filed 10-9-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS CAYUGA (LST 1186) and USS BOULDER (LST 1190) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval tank landing ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 26, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS CAYUGA (LST 1186) and USS BOULDER (LST 1190) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as Navy ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the ships' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following Navy ships to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec.2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than one-half ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS CAYUGA	LST 1186	N/A	N/A	N/A	N/A	N/A	N/A	X	89
USS BOULDER	LST 1190	N/A	N/A	N/A	N/A	N/A	N/A	X	89

Dated: September 26, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-23000 Filed 10-9-86; 8:45 am]

BILLING CODE 3810-AE-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-231]

Radio Broadcasting; Availability of FM Broadcast Assignments

AGENCY: Federal Communications Commission.

ACTION: Disposition of petitions for reconsideration.

SUMMARY: This action disposes of 23 of 28 petitions for reconsideration and/or applications for review directed against the *Memorandum Opinion and Order*, published on November 18, 1985 (50 FR 47391) in MM Docket No. 84-231 (the omnibus proceeding). In that *Memorandum Opinion and Order*, the Commission stated that petitions for rule making proposing substitute channels for the omnibus allotments would not be favorably entertained in the absence of a showing of compelling need or Commission error. The petitioners contend that the compelling need requirement is inconsistent with section 307(b) of the Act and was adopted in contravention of the Administrative Procedure Act. In addition, this action addresses several individual petitions concerning such things as "community" status of Semora, North Carolina and petitions by Station KTLE, Tooele, Utah and by Station WGGQ, Waupun, Wisconsin alleging compelling need for a change in channels.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, MM Docket No. 84-231, adopted August 25, 1986, and released September 10, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of the Memorandum Opinion and Order

1. October 28, 1985, the Commission adopted the *Memorandum Opinion and Order* (50 FR 47391; November 18, 1985) concerning 57 separate petitions for reconsideration directed against the *First Report and Order* (50 FR 3514, January 25, 1985) in MM Docket No. 84-231. The majority of pleadings in the present proceeding concerned the compelling need standard set forth in that *Memorandum Opinion and Order* and the fact that an upgrade in station class would not constitute a compelling need.

2. The compelling need standard, in effect, will require some petitioners to postpone the filing of their petitions for rule making. It is a procedural rather than a substantive requirement. As such, the Commission is not required to provide the notice and opportunity for public comment under the Administrative Procedure Act. 5 U.S.C. 553(b)(3)(A). The Commission also stated that its desire for an efficient and expeditious implementation of the new FM technical standards in Docket 80-90 cannot overide section 307(b) of the Act. In this connection, the Commission observed that the omnibus proceeding was designed to further section 307(b) objectives and that a postponement of the filing of certain petitions for rule making does not contravene section 307(b). Finally, the Commission determined its objections to the routine substitution of channels allocated in this proceeding would no longer apply with respect to those channels for which the filing window is closed as long as the new channel to be substituted meets the site proposed in all pending applications for the existing channel.

3. The Commission also upheld the allotment at Semora, North Carolina finding that it has sufficient governmental, social and business indicia to qualify as a "community" for allocation purposes. Finally, the Commission determined that the availability of other broadcast services obviates a finding of compelling need for channel upgrades at Station KTLE, Tooele, Utah and Station WGGQ, Waupun, Wisconsin. These findings are set forth in Appendix B along with other miscellaneous rulings. Appendix A sets forth those parties filing pleadings treated as reconsiderations. Five pleadings not mentioned in Appendix A will be treated in a *Second Further Notice of Proposed Rule Making* in this Docket concerning Pensacola, Florida. Note: Appendices A and B are not published herein but are included in the full text of the *Memorandum Opinion and Order*.

4. Accordingly, it is ordered that the petitions directed against the *Memorandum Opinion and Order* are granted to the extent indicated above and in the Appendices and denied in all other respects.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-23005 Filed 10-9-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 635

Public Hearing Requirements for Service Changes and Fare Changes

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule; interpretative amendment.

SUMMARY: The Urban Mass Transportation Administration is amending its rule on Public Hearing Requirements for Service Changes and Fare Changes to clarify the public hearing requirements of section 5(i)(3) of the Urban Mass Transportation Act of 1964, as amended. These requirements will no longer apply whenever the recipient of funds under the Act has certified it will comply with section 9(e)(3)(H) of the Act or where the recipient is in an area that is no longer an urbanized area.

DATE: This Notice is effective on October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Jocelyn Karp, Office of Chief Counsel, (202) 366–1936.

SUPPLEMENTARY INFORMATION: The phasing out of the section 5 urban formula grant program will be completed on September 30, 1986. As recipients of Federal assistance under the Urban Mass Transportation Act of 1964, as amended, have prepared for the completion of this phaseout, questions have arisen about the continued applicability of the requirements of section 5(i)(3) of the Act. To resolve these questions, the Urban Mass Transportation Administration is clarifying the application of the requirements of section 5(i)(3) of the Act.

Legislative History

Section 5 of the Urban Mass Transportation Act of 1964, as amended (UMT Act), authorizes the Secretary of Transportation to make grants for construction of mass transportation projects or for operating assistance to mass transportation systems in urbanized areas. Funds are made available under section 5 pursuant to a legislative formula. Subsection (i) requires that the Governor or the designated recipient of funding under section 5 certify to the Secretary that he or it has conducted public hearings, or afforded the opportunity for such hearings, and that the hearings included or were scheduled to include consideration of issues specified under the subsection. The Secretary's authority under the UMT Act has been delegated to the Administrator of the Urban Mass Transportation Administration.

Paragraph (3) of subsection 5(i) was added to the UMT Act by an amendment to the Surface Transportation Assistance Act of 1978, Pub. L. 95–599. The provision requires that any section 5 applicant submit, along with its public hearing certification:

> . . . assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.

The provision applied to any "mass transit system funded under section 5 of the UMT Act for which a general fare increase or substantial change in service [was] made after [the effective date of the legislation]." 44 FR 41272 (July 16, 1979). It applied to any recipient of section 5 assistance, capital or operating. 45 FR 26298 (April 17, 1980).

In its reauthorizing proposals in 1981 and 1982, the Administration proposed to amend section 5(i)(3) to read as follows:

> (3) Assurances satisfactory to the Secretary that any public mass transportation system receiving operating assistance under this section has a locally developed process to solicit and consider public comment prior to raising fares or reducing transit service.

This amendment would have continued the requirement of a public comment process, but that public comment process could have been locally determined. The amended section would only have been a condition of assistance for operating assistance grants. Neither the Administration's 1981 nor its 1982 authorizing proposal was accepted.

The core of the Administration's proposed fare and service change provision, without its limitation to operating assistance, was included in the conference agreement on the Surface Transportation Assistance Act of 1982 as part of the new section 9 urban formula assistance program. Thus, section 9(e)(3)(H) of the UMT Act requires that a recipient, as a condition of receiving funds under section 9, certify that it "has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service."

Discussion of Applicability of Section 5(i)(3)

The original intent of section 5(i)(3) was that by accepting section 5 funds, the recipient promised to abide by section 5(i)(3) in the future. The enactment of the section 9 program militates against the continued application of section 5(i)(3) requirements as originally intended. It is clear from the legislative history that section 9 was intended to supersede section 5. Moreover, the legislative history of section 9(e)(3)(H), which specifically relates to public comment on fare and service changes, establishes that this provision is the successor to section 5(i)(3). In other words, the requirements of section 9(e)(3)(H) were intended to take the place of the section 5(i)(3) requirements.

Therefore, once a recipient has certified that it will meet the requirements of section 9(e)(3)(H), it need not meet the requirements of section 5(i)(3). Otherwise, the section 5 fare and service change requirements would conflict with those of section 9. It should be noted that since section 9(e)(3)(H) allows the recipient to develop a process locally to receive and consider comments on fare changes and major service reductions, a recipient is free to hold hearings as contemplated by section 5(i)(3) should it choose to do so.

Because section 5(i)(3) applied to the urban formula grant program, it would be extending the reach of the provision and would be inconsistent with section 18, which authorizes the nonurbanized area formula assistance program, to apply the section 5(i)(3) requirements to a recipient that is in an area that no longer is an urbanized area. Therefore, where the recipient received section 5 funds after the enactment of section 5(i)(3), but is in an area that no longer is an urbanized area (and thus has not made the section 9 certification), the section 5(i)(3) requirements do not apply.

Notice and Comment

This amendment is interpretative; it merely clarifies the application of section 5(i)(3) to the UMTA grant program. Under section 553(b) of the Administrative Procedure Act, notice and comment are not necessary.

Effective Date

As noted above, before the enactment of the Surface Transportation Assistance Act of 1982, certification under section 5(i)(3) was interpreted as a promise to comply with those hearing requirements during the life of the project. However, the 5(i)(3) hearing requirements are different from those of section 9(e)(3)(H), the section that superseded section 5(i)(3). It is imperative that recipients be clear on which hearing requirements they must follow for fare and service changes. This amendment will clarify when recipients are no longer required to follow section 5(i)(3) requirements. Therefore, there is

good cause under section 553(d) of the Administrative Procedure Act to make this amendment effective immediately upon publication.

Regulatory Impacts

The Administrator of UMTA has determined that this amendment does not constitute a major rule as defined by Executive Order 12291, nor is it a significant rulemaking action under the Department of Transportation regulatory policies and procedures.

Paperwork Reduction Act

The amendment does not impose any information collection requirements beyond those already in place for section 9. The section 9 information collection requirements have already been approved (OMB control number 2132–0502) under the Paperwork Reduction Act (Pub. L. 96–511, 94 Stat. 2812). Therefore, this amendment is not subject to section 2(a) of the Paperwork Reduction Act.

List of Subjects in 49 CFR Part 635

Grant programs—transportation, Public hearings, Mass transportation.

PART 49—[AMENDED]

In consideration of the foregoing, Chapter VI of Title 49, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 635 continues to read as follows:

Authority: 49 U.S.C. 1604(i)(3); sec. 5(i)(3) of the Mass Transportation Act of 1964, as amended; 49 CFR 1.51.

2. Section 635.3 is amended by revising paragraph (c) to read as follows:

§ 635.3 Assurances.

* * * * *

(c) Each recipient must abide by the terms and conditions stated in the assurance, until the recipient either submits a certification under section 9(e)(3)(H) of the Act or is in an area that no longer is an urbanized area.

(Catalog of Federal Domestic Assistance Program Numbers: 20.507, Urban Mass Transportation Capital and Operating Assistance Formula Grants; 20.509, Public Transportation for Rural and Small Urban Areas).

Issued on: October 3, 1986.

Ralph L. Stanley,

Administrator.

[FR Doc. 86–22785 Filed 10–9–86; 8:45 am]

BILLING CODE 4910–57–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Delegation of Authority to the Revocation Board

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; Notice of enforcement policy.

SUMMARY: The Commission intends to exercise its authority under 49 U.S.C. 10925 (b)(1), (c)(1) and (c)(3) to revoke the certificate, permit or license of a motor carrier, broker or freight forwarder (after due notification) for failure to pay the proper application fee, as required by 49 CFR 1160.9(a). Allowing such carriers to reap the benefits of continued operation without having paid the required fees is not only unfair to those carriers and brokers who have paid the required fee, it is also in violation of our regulation under 49 CFR 1160.9(a) which requires the filing of such applications "with the proper application fee." The Commission has determined that uncontested proceedings involving filing fees can best be processed by the Revocation Board and, pursuant to 49 U.S.C. 10305, is delegating that responsibility to the Board. Appropriate revisions in the Code of Federal Regulations will be made to reflect the delegation.

EFFECTIVE DATE: This decision is effective on November 10, 1986.

FOR FURTHER INFORMATION CONTACT:
Heber P. Hardy, (202) 275–7148
or
John W. Fristoe, (202) 275–7844

SUPPLEMENTARY INFORMATION: Since 1981, about $40,000 has been lost to the U.S. Treasury because numerous motor carriers and brokers paid the application filing fee for their operating authority (or a portion thereof) with a check that was not honored by the bank, when presented for payment. Subsequent efforts at collection have not been successful.

Allowing such carriers to reap the benefits of continued operation without having paid the required fees is not only unfair to those carriers and brokers who have paid the required fee, it is also in violation of our regulation under 49 CFR 1160.9(a) which requires the filing of such applications "with the proper application fee."

The Commission has the authority under 49 U.S.C. 10925 to suspend, amend, or revoke the operating authority of carriers (subject to the due process requirements specified there) for failure to comply with the Act, a regulation or order of the Commission, or a condition of its certificate or permit, or license. The Commission hereby announces that it intends to exercise that authority to revoke or suspend certificates when carriers willfully fail to comply with our orders to pay the fees.

We have determined that uncontested proceedings involving filing fees can be processed most efficiently by the Office of Compliance and Consumer Assistance, Revocation Board. If carriers or brokers do not respond to an order requiring payment of the fees, the Revocation Board will be authorized to suspend or revoke the certificate, permit or license. Under 49 U.S.C. 10305, we delegate that responsibility to the Board and revise the regulations at 49 CFR 1011.6(b)(4), as set forth in the Appendix, to reflect this action. Because the rule revisions only affect internal Commission procedures they are issued here in final form. Public comment is not required. 5 U.S.C. 553(b)(A).

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure.

Dated: October 1, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Part 1011 of Title 49 of the CFR is amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for Part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Paragraph (b)(4) of § 1011.6 is revised to read as follows:

§ 1011.6 Employee Boards and Division of the Commission.

* * * * *

(b) * * *

(4) Entry of show cause orders under sections 11701 and 10925 (b)(1), (c)(1), and (c)(3) directed to motor carriers, brokers, water carriers, and freight forwarders who have failed to submit the proper application fee or to file required annual reports; determination of uncontested motor carrier, broker,

water carrier, and freight forwarder, suspension, change or revocation proceeding under section 49 U.S.C. 10925 of the Act, which have not involved taking testimony at a public hearing.

* * * * *

[FR Doc. 86-23060 Filed 10-9-86; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 60597-6097]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closures.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish optimum yield (OY) allocated to trawl gear in the Western Regulatory Area and the OY for Pacific ocean perch (POP) in the Eastern Regulatory Area of the Gulf of Alaska have been achieved. Closures of the fisheries to retention of these species are necessary to limit the trawl harvest of sablefish in the Western Regulatory Area and the harvest of POP in the Eastern Regulatory Areas, respectively, to the amounts that are permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). These closures are management measures intended to allocate the sablefish resource between hook-and-line, trawl, and pot gear in the Western Regulatory Area, and to conserve the POP resource in the Eastern Regulatory Area.

DATES: Effective at noon (1200 hours), Alaska Daylight Time (ADT), October 7, 1986, until midnight (2400 hours), AST, December 31, 1986. Public comments are invited on this closure until October 22, 1986.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the Alaska Regional Office, NMFS, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act) provides for inseason adjustments of fishing seasons and areas. Regulations at § 672.22(a) specify that these adjustments will be made by the Secretary of Commerce under procedures set out in that section.

Section 672.2 defines three regulatory areas in the Gulf of Alaska. Fishing in these regulatory areas for each of the groundfish species that are managed under the FMP is conducted until closed. The trawl fishery for sablefish in the Western Regulatory Area and the fishery for POP in the Eastern Regulatory Area are being closed under this notice.

Closure of the Sablefish Trawl Fishery

The OY for sablefish in the Western Regulatory Area is 2,850 metric tons (mt). Section 672.24(b)(2) of the regulations restricts the take of sablefish in this area by trawl gear to 20 percent of the OY, or 570 mt.

Although the fishing season began on January 1, 1986, actual fishing did not take place until the first week of March. Eight different trawl vessels have landed about 500 mt of sablefish through the third week of September. About 100 mt was caught during the second and third weeks of September. Two trawl vessels were still fishing through the last week of September. Based on current catch rates, an estimated 570 mt has been harvested. Therefore, since the quota has been reached, further retention of sablefish by vessels fishing with trawl gear after noon on October 7, 1986, is prohibited.

Closure of the POP Fishery

The OY for POP in the Eastern Regulatory Area is 875 mt. Section 672.20(f)(1) of the regulations requires the Secretary to prohibit retention of a species in a regulatory area when the Regional Director determines that the OY for that species has been or will be reached. Although the fishing season for POP began on January 1, 1986, actual fishing did not take place until the first week of May. Seven different trawl vessels have landed about 862 mt of POP through the third week of September. Two trawl vessels were still fishing through the last week of September. Based on current catch rates, an estimated 875 mt has been harvested. Since the OY has been reached, further retention of POP after noon on October 7, 1986, is prohibited.

Under § 672.20(f)(3), the Regional Director is allowing fishing for other groundfish species to continue, except sablefish for which fishing is closed throughout the Eastern Regulatory Area. In allowing other fisheries to continue, the Regional Director considered

(1) The risk of biological harm to POP stocks;

(2) The risk of socioeconomic harm to authorized users of POP; and

(3) The impact that a continued closure might have on the socioeconomic wellbeing of other domestic fisheries.

The Regional Director made these findings:

(1) No risk of biological harm to POP will result if additional fish are caught incidentally in other groundfish fisheries, because the additional amount of POP that would be caught is far short of the 4,400-mt midpoint in the equilibrium yield for POP in the Eastern Regulatory Area;

(2) No risk of socioeconomic harm to authorized users of the POP resource will result, because the amount of POP harvested is a small part of their catch and other groundfish species, including rockfish, are still available should the authorized users pursue them; and

(3) A continued closure will have no impact on the socioeconomic wellbeing of other domestic fisheries, since other species of fish, including shellfish, that are important in the domestic fisheries will not be significantly affected.

These closures will be effective when this notice is filed for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game under § 672.22(a). Public comments on this notice of closure may be submitted to the Regional Director at the address above for 15 days following its effective date. If comments are received, the necessity of this action will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Other Matters

Allocation of the sablefish resource between hook-and-line, trawl, and pot gear in the Western Regulatory Area as required by the FMP, and the continued health of both the sablefish and the POP resource will be jeopardized unless this closure takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this

notice is contrary to the public interest and that its effective date should not be delayed.

This action is taken under the authority of §§ 672.20, 672.22, and 672.24 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: (16 U.S.C. 1801 *et seq.*)

Dated: October 7, 1986.

Carmen J. Blondin,
Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-23055 Filed 10-7-86; 4:30 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 197
Friday, October 10, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0578]

Electronic Fund Transfers; Service-Provider Periodic Statements; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 8, 1986, the Board published proposed amendments to Regulation E—Electronic Fund Transfers (51 FR 28589). The comment period was scheduled to end October 10, 1986. In response to requests it has received, the Board has extended the comment period to December 12, 1986.

DATES: Comments must be received on or before December 12, 1986.

ADDRESS: Comments may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the guard station at the courtyard entrance to the Eccles Building (Attention: Mail Services), on 20th Street between Constitution Avenue an C Street, NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. All material submitted should refer to Docket No. R-0578.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3667 or (202) 452-2412. For Telecommunications Device for the Deaf (TDD) users, contact: Earnestine Hill or Dorothea Thompson at (202) 452-3544.

SUPPLEMENTARY INFORMATION: On August 8, 1986, the Board published for comment proposed amendments to Regulation E (51 FR 28589). The proposed amendments relate to service-providing institutions, such as retailers, that offer electronic fund transfer (EFT) services by issuing to consumers debit cards, or other devices, for accessing checking or other deposit accounts. The proposal would amend Regulation E to:

(1) Eliminate the current requirement that service providers send periodic statements to consumers showing the EFTs made with the access devices;

(2) Require instead that service providers furnish the necessary information to the financial institutions holding the consumers' accounts for inclusion on the account-holding institutions' periodic statements; and

(3) Make other changes to ensure consumer protections and clarify the responsibilities of service providers and account-holding institutions.

Comment was requested on the proposal by October 10, 1986.

The Board has been asked to extend the comment period to provide interested parties time to present their views. In response to these requests, the Board is extending the comment period through December 12, 1986.

List of Subjects in 12 CFR Part 205

Banks, banking, Consumer protection, Elecronic fund transfers, Federal Reserve System, Penalties.

By order of the Board of Governors, acting through its Secretary under delegated authority, October 6, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-23063 Filed 10-9-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 852 3158]

Viobin Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Monticello, Ill. manufacturer and seller of wheat germ oil products, as well as its Richmond, Va. parent company, from misrepresenting that their wheat germ oil products can help consumers improve endurance, stamina, vigor, or any aspect of athletic fitness, or that octacosanol, the active ingredient in its products, is in any way related to body reaction time, oxygen debt, or athletic performance. Additionally, respondents would be required to run corrective advertising for a specified period of time.

DATE: Comments will be received until December 9, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/B-407, Brinley H. Williams, Washington, DC 20580. (202) 376-8720.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Wheat germ oil products, Trade practices .

Before Federal Trade Commission

In the Matter of Viobin Corp., a corporation.

[File No. 852 3158]

Agreement Containing consent order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Viobin Corporation, and it now appearing that Viobin Corporation, a corporation, and its parent corporation, A.H. Robins Company, Incorporated, hereinafter sometimes referred to as the companies, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Viobin Corporation and A.H. Robins Company, Incorporated, by their duly authorized officers and attorneys, and counsel for the Federal Trade Commission that:

1. Viobin Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 226 Livingston Street, Monticello, Illinois.

A.H. Robins Company, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business at 1407 Cummings Drive, Richmond, Virginia.

2. The companies admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. The companies waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the companies in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the companies that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of §2.34 of the Commission's Rules, the Commission may, without further notice to the companies: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to the companies' addresses as stated in this agreement shall constitute service. The companies waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. The companies have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be bound by its provisions and, specifically, required to file one or more compliance reports showing that they have fully complied with the order. The companies further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is Ordered that respondent Viobin Corporation, a corporation, its parent corporation, A.H. Robins Company, Incorporated, and all the other subsidiaries of A.H. Robins Company, Incorporated, their successors and assigns (hereinafter collectively "the companies"), and the companies' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, labeling, packaging, offering for sale, sale, or distribution of Viobin Wheat Germ Oil, Prometabs, Prometol, or any other product of substantially similar composition or possessing substantially similar properties, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that the product can help consumers improve endurance, stamina, vigor, reaction time, or any aspect of athletic fitness or performance.

B. Representing, directly or by implication, that octacosanol is related in any way to body reaction time, oxygen uptake, oxygen debt, or athletic fitness or performance.

II

It is further ordered, (1) That respondent Viobin Corporation, its successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, labeling, packaging, offering for sale, sale, or distribution of any product for personal or household use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, and (2) that A.H. Robins Company, Incorporated, its successors and assigns, and their officers, agents, representatives, and employees directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, labeling, packaging, offering for sale, sale, or distribution of any wheat germ oil product or any product advertised as containing octacosanol, triacontanol, tetracosanol, or hexacosanol, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, the purpose, content, sample, reliability, results or conclusions of any scientific test, research or article, or any other scientific opinion or data.

III

A. It is further ordered that the companies and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, labeling, packaging, offering for sale, sale, or distribution of any product for personal or household use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, concerning any benefit to be derived from using any such product with respect to athletic performance, capability or endurance unless, at the time of such representation, the companies possess and rely upon reliable and competent evidence that substantiates each such representation of the type and quantum appropriate for the representation.

B. For the purpose of Part III A to the extent evidence consists of scientific or professional tests, analyses, research, studies or any other evidence based on expertise of professionals in the relevant

area, such evidence shall be "reliable and competent" only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

IV

It is further ordered that respondent Viobin Corporation, its successors and assigns, and their officers, agents, representatives and employees:

A. Clearly and prominently disclose the following statement in each advertisement for Viobin Wheat Germ Oil, Prometabs and Prometol appearing in any magazine, any newspaper, or on any radio or television broadcast within one year of the date of service of this Order:

Our earlier studies of the effects of wheat germ oil and octacosanol on endurance, stamina and vigor, while following techniques accepted at the time, do not meet the criteria of modern testing and therefore we no longer claim that the use of wheat germ oil or octacosanol will improve endurance, stamina or vigor, or any aspect of athletic fitness or performance.

B. Shall within six (6) months of the date of service of this Order place in each of the print publications in which any advertisement for Viobin Wheat Germ Oil appeared during calendar year 1985 at least one advertisement, not less than 5" x 7-1/2" in size, that clearly and prominently discloses the statement set forth in Paragraph IV A.

V

It is further ordered that, for three years after the last date of dissemination of the representation, the companies and their officers, agents, representatives and employees, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying copies:

1. OF all materials that were relied upon in disseminating any representation covered by this Order.

2. Of all test reports, studies, surveys, or demonstrations in their possession or control or of which they have knowledge that contradict any representation made that is covered by this Order.

VI

It is further ordered that respondent Viobin Corporation notify the Commission at least thirty (30) days prior to any proposed change in respondent or its parent corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

It is further ordered that the companies shall forthwith distribute a copy of this Order to each of their operating divisions and to all distributors of Viobin Wheat Germ Oil, Prometabs, Prometol or any other products of substantially similar composition.

VIII

It Is Further Ordered that respondent Viobin Corporation shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form of compliance with this Order.

IX

It Is Furthered Ordered that no provision of this Order shall be interpreted as precluding respondent from making statements or disclosures on its labels or labeling where those statements or disclosures are required by regulations promulgated by the Food and Drug Administration (FDA) or with statutes the FDA enforces.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted subject to final approval an agreement to a proposed consent order from Viobin Corporation (Viobin).

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns advertisements for Viobin's nutritional supplements that are wheat germ oil products which contain octacosanol as an active ingredient. Specifically, these products consist of cold-processed wheat germ oil in different forms, including Viobin Wheat Germ Oil (liquid), Prometol (capsules), and Prometabs (tablets).

The Commission's complaint in this matter charges Viobin with disseminating advertisements containing false and unsubstantiated representations regarding the effect of Viobin's wheat germ oil products on consumers' athletic fitness or performance. According to the complaint, advertisements for Viobin wheat germ oil products falsely claimed that the use of the products and the octacosanol contained in these products will improve consumers' endurance, stamina, total body reaction time, ability to overcome fatigue and overall athletic fitness or performance. The complaint alleges that the claims are, in fact, false and that Viobin wheat germ oil products and the ingredient octacosanol are not effective in improving athletic fitness or performance.

The complaint also alleges that the advertisements contained false representations that Viobin had a reasonable basis for the claims that its wheat germ oil products could improve various aspects of human physical performance or fitness when, in fact, Viobin had no reasonable basis for these representations.

The consent order contains provisions designed to remedy the advertising violations charged as well as to prevent both respondent and its parent corporation, A.H. Robins Company, Incorporated, from engaging in similar acts and practices in the future.

Part I of the consent order prohibits the respondent and its parent corporation from representing directly or indirectly that Viobin Wheat Germ Oil, Prometabs, Prometol or any other product of substantially similar composition can help consumers improve endurance, stamina, vigor, reaction time or any aspect of athletic fitness or that octacosanol is in any way related to body reaction time, oxygen uptake, oxygen debt or athletic fitness or performance.

Part II of the consent order requires the respondent and its parent corporation to cease misrepresenting the purpose, content, sample, reliability, results or conclusions of any scientific test, research, or article, or any other scientific opinion or data. The products covered under the terms of Part II with respect to Viobin are different from those covered with respect to its parent corporation. Part II(1) applies to respondent Viobin and product coverage extends to any product for personal or household use. Part II(2) applies to the parent corporation and coverage is limited to any wheat germ oil product or

any product advertised as containing octacosanol or its related ingredients.

Part III of the consent order requires the respondent and its parent corporation to cease making any representations for any product for personal or household use concerning the benefits of such product with respect to athletic performance, capability or endurance to be derived from using such products unless the respondents possess and rely upon reliable and competent evidence that substantiates each such representation.

Part IV of the order is a corrective advertising provision under which Viobin must inform consumers that the benefits claimed for wheat germ oil products with respect to physical fitness are not supported by scientific evidence. Under its terms, respondent must include, in any advertising disseminated within one year of the date of service of this order, a statement that the earlier studies of the effects of wheat germ oil and octacosanol on endurance, stamina and vigor do not meet the criteria of modern testing and therefore Viobin no longer claims that such products will improve endurance, stamina and vigor. Furthermore, Part IV requires that, within six months of the date of service of this order, the respondent place at least one advertisement, containing the prescribed statement, in each publication in which Viobin Wheat Germ Oil advertisements appeared during the 1985 calendar year.

The order contains the standard provisions requiring retention of records supporting any advertising claims covered by this order (Part V) and notification to the Commission of changes in its corporate structure (Part VI). These standard provisions also require the dissemination of copies of the consent order, including dissemination to all distributors of Viobin Wheat Germ Oil, Prometabs and Prometol (Part VII), and the submission of a report to the Commission on compliance with the terms of the order (Part VIII).

Part IX of the order provides that the respondent is not precluded from making statements or disclosures on labels when such disclosures are required by Food and Drug Administration regulations.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-22995 Filed 10-9-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-3-86 or INTL-610-86]

Transfers of Property by U.S. Persons to Foreign Corporations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposesd regulations relating to transfers of property by U.S. persons to foreign corporations.

DATES: The public hearing will be held on Monday, December 1, 1986, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Monday, November 17, 1986.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-3-86 or INTL-610-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 367 and 6038B of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, May 16, 1986 (51 FR 17990).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Monday, November 17, 1986, an outline of oral statements to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

D. Kevin Dolan,

Associate Chief Counsel (International).

[FR Doc. 86-23024 Filed 10-9-86; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Bighorn Canyon National Recreation Area, Montana and Wyoming; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule pertains to a special regulation concerning fishing within Bighorn Canyon National Recreation Area, Montana and Wyoming. The proposed special regulation will allow fishing methods which are authorized under applicable state law. A National Park Service General Regulation, effective April, 1984, prohibits fishing in fresh water in any manner other than by hook and line, with the rod or line being closely attended. That regulation is in conflict with Montana and Wyoming fishing regulations, which have been in effect since before Bighorn Canyon National Recreation Area was authorized in 1966. Therefore, the National Park Service is proposing a special regulation having the effect of relaxing the general regulation to allow certain fishing activities to continue at Bighorn Canyon National Recreation Area.

DATES: Written comments will be accepted through November 10, 1986.

ADDRESS: Comments should be addressed to: Superintendent, Bighorn

Canyon NRA, P.O. Box 458, Fort Smith, Montana 59035.

FOR FURTHER INFORMATION CONTACT:

Richard L. Lake, Chief Ranger, Bighorn Canyon NRA, P.O. Box 458, Fort Smith, Montana 59035

or

Richard W. Hougham, District Ranger, Bighorn Canyon NRA, P.O. Box 487, Lovell, Wyoming 82431

SUPPLEMENTARY INFORMATION:

Background

National Park Service General Regulations (36 CFR 2.3(d)(1)), which became effective on April 30, 1984, prohibit "Fishing in fresh water in any manner other than by hook and line, with the rod or line being closely attended".

This regulation is in conflict with Montana and Wyoming fishing regulations which have been in effect since before Bighorn Canyon National Recreation Area was authorized in 1966, and for many years prior to its authorization.

Examples of conflicts include:

1. Montana law states, "All waters open to bow and arrow hunting and snagging of non-game fish. Non-game fish and turbot may be taken with rubber or spring propelled spears by persons swimming or submerged in all waters open to fishing".

2. Wyoming law states, "It is legal to take non-game fish by bow and arrow and by crossbow without a license or permit". "No person shall use a spear gun to take fish underwater without obtaining the proper fishing license and an underwater fishing license".

Congress's stated interest in the enabling legislation for Bighorn Canyon National Recreation Area was for the National Park Service to permit hunting and fishing on lands and waters within the recreation area in accordance with the appropriate laws of the United States and of the states of Montana and Wyoming.

The National Park Service has determined that allowing fishing at Bighorn Canyon National Recreation Area in accordance with methods permitted by the states of Montana and Wyoming would benefit the visitor and simplify fishing regulations and enforcement. This regulation is necessary to allow recreational taking of rough or non-game fish by traditional methods other than hook and line, i.e., underwater spear fishing and bow and arrow fishing. The National Park Service anticipates that this change will have a positive effect on the fishery exerting some control of increasing numbers of non-game fish.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking.

Drafting Information

The principal author of the rulemaking is Richard W. Hougham, Bighorn Canyon National Recreation Area, Lovell, Wyoming 82431.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Compliance with Other Laws

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will contribute in some part to the tourism of communities in the vicinity of the recreation area by assuring the continued availability of the range of recreational activities that have been available to area users in the past.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental Regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. In section 7.92, by adding a new paragraph (c) to read as follows:

§ 7.92 Bighorn Canyon National Recreation Area.

* * * * *

(c) *Fishing.* Unless otherwise designated, fishing in any manner authorized under applicable state law is allowed.

Dated: September 19, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-23051 Filed 10-9-86; 8:45 am]

BILLING CODE 4310-70-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM86-4]

Notice of Inquiry; Copyrightability of Digitized Typefaces

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Inquiry.

SUMMARY: The Copyright Office of the Library of Congress has received applications to register claims to copyright in digitized information or material that represents typeface designs and is used to print texts. These claims present unique legal and policy issues regarding the nature of the alleged "works" and of the "authorship", if any, that is present in the typical digitized typeface. The Copyright Office seeks public comment about the copyrightability of digitized typeface apart from the uncopyrightable typeface design to assist the Office in establishing general registration practices or issuing regulations governing such registrations.

DATE: Comments should be received on or before December 9, 1986.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department 100, Washington, DC 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 287–8380.

SUPPLEMENTARY INFORMATION: Under section 410(a) of the Copyright Act, title 17 of the United States Code, the Register of Copyrights determines whether the material submitted for registration "constitutes copyrightable subject matter and that the other legal and formal requirements" have been met before issuing a certificate of registration.

To be copyrightable, a work must constitute an "original work of authorship." 17 U.S.C. 102. The degree of original, creative effort required does not rise to the level of novelty, but neither does the copyright law protect merely trivial variations of public domain material. The courts have defined the necessary quantum of authorship using terms such as "a modicum," "a minimum," or "an appreciable amount" of original, creative expression.

The Copyright Office has received applications to register claims to copyright in material variously described as "data," "database", "computer program," "compilation of data," and typefont data set." The claims seek registration of elements comprising digitized versions of typeface designs. The regulations of the Copyright Office provide that "mere variations of typographic ornamentation [or] lettering" are not copyrightable. 37 CFR 202.1(a). *In Eltra Corp. v. Ringer*, 579 F.2d 294 (4th Cir. 1978), the Fourth Circuit upheld the Copyright Office's refusal to register a claim to copyright in typeface design on the ground of 37 CFR 202.10(c) (1978) [now codified in the Copyright Act in the definition of "pictorial, graphic, or sculptural works"]. That regulation prohibited, and the current Copyright Act now prohibits, copyright in useful articles, except to the extent the articles contain artistic features that are capable of existing separately and independently of the overall utilitarian shape. In the *Eltra* case the court held the regulation valid and correctly applied to deny copyright registration for typeface designs: "it is patent that typeface is an industrial design in which the design cannot exist independently and separately as a work of art." 579 F.2d at 298.

A typeface was defined in the 1976 House Report accompanying the Copyright Bill later enacted as—

> A set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a notational system and are intended to be embodied in articles, whose intrinsic utilitarian function is for use in composing text or other cognizable combinations of characters. H.REP. 1476, 94th Cong., 2d Sess. 55 (1976).

The Report continued that the "Committee does not regard the design of typeface, as thus defined, to be a copyrightable 'pictorial, graphic, or sculptural work' within the meaning of this Bill . . . ." *Ibid.*

In the present set of applications, registration is purportedly sought for the encoded "information," if any, underlying digital typeface design—whether it is data, instructions, or a combination of both—which, it has been argued, is distinct from the noncopyrightable typeface. *See Eltra Corp.* v. Ringer, 579 F.2d 294 (4th Cir. 1978).

Digital typography, or the designing of typeface by a digitized process, has become a revolution in the printing industry. "The advantages of digital typography are substantial: Once letterforms are represented as discrete elements they can be efficiently encoded as discrete and distinguishable physical properties in any convenient medium, processed as bits of "data" or "instructions" by a computer, transmitted over great distances as pulses of current and decoded to reconstitute the letterforms for the person receiving the message. Indeed, once type is digitized it is effectively encoded in the binary language of the computer, and so the size, shape and subtler characteristics of letters can be readily modified by a computer program." Bigelow and Day, *Digital Typography*, Vol. 249 Sci. Am. p. 106 (Aug. 1983). This process of digitizing an analogue letterform and its subsequent decoding results in an approximation of the analogue letterform. The typeface "is made up of discrete elements. These elements can be line strokes, pixels, colors, shades of gray or any other graphic unit from which a letterform can be constructed." *Id.*

It is entirely unclear, however, where the human authorship, if any, lies in the creation of these underlying "data" or "instructions." Is it a literary work, a compilation, a computer program, or some hybrid of one or more of the above? Or, is the "database" devoid of any authorship, apart from the computer program used to create the typeface? The Copyright Act of 1976, 17 U.S.C. 101 *et seq.* (1976), defines a literary work as one "other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, films, tapes, disks, or words, in which they are embodied. 17 U.S.C. 101. A compilation, in turn, is "a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship." *Id.* Finally, a computer program "is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result." *Id.*

The Copyright Office requests public comment on the general questions of the nature and extent of any copyrightable authorship in digitized typography, apart from the typeface design itself. Specifically, we seek comment on the following questions:

Questions

1. *Idea/Expression:*

(a) Is it possible to express in a variety of ways any instructions utilized in creating or reproducing the same digital typeface design? If so, discuss the nature and kind of technical or creative judgments that result in different instructions?

2. *Copyrightable Elements:*

(a) Apart from the uncopyrightable design of the typeface characters, what other elements of a digitized typeface comprise the "original work of authorship", if any, in which copyright could be claimed?

(b) What are the process(es) involved in the creation of the "original work of authorship," if any?

3. *Nature and Extent of Claim:*

(a) Where the copyright claim is described as a "computer program" or "typefont program:" Where and how does the "information" or "instructions" or "data" alleged to be represented by digitized typefaces fit into this frame of reference? Are they "computer programs" within the meaning of the section 101 definition? Do the instructions satisfy the copyright law standard and qualify as "original works of authorship," or are the instructions minimal and routine?

(b) Where the copyright claim is described as a "compilation of data," a "typefont database" or a "typefont data set":

(1) What are the elements of human selection and/or arrangement, if any?

(2) Are the data predetermined by the ultimate shape of the typefont character or letter? If not, how significant is any subjective judgment involved in the choice of coordinates or other data?

4. If registration were made for the "data" or "instructions" used to form digitized typefaces, what form of deposit would be most appropriate to represent the alleged authorship?

5. *Terminology:*

(a) What do the following terms mean: "bitmap", "bytemap", "bit/bytemapping technique", "bit/bytemapping code?" Do these terms have similar meanings when they are used by the digital printing and microcomputer software industries?

[17 U.S.C. 410, 702]

List of Subjects in 37 CFR Part 202

Copyright Registration.

Dated: September 30, 1986.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86-22973 Filed 10-9-86; 8:45 am]

BILLING CODE 1410-07-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health Services; Eligibility, Extension of Comment Period

AGENCY: Public Health Service, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Department of Health and Human Services (HHS) is extending the comment period on a proposal to revise the regulations governing who may receive health services from the Indian Health Service (IHS). The extension is being made because of great interest expressed in this proposal by affected individuals, Tribal governments and the Congress, and in response to a number of specific requests for additional time in order to accommodate previously scheduled meetings of tribes and Indian organizations. It is our desire that all interested parties have ample time to express their views on this proposal.

DATE: In order to assure consideration in the development of any final rule, written comments must be received on or before November 7, 1986.

ADDRESS: Written comments should be sent to Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland, 20857. Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland, 20857, Telephone (301) 443-1116 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 1986 (51 FR 21118), HHS proposed to revise the regulations in 42 CFR Subparts A, B, and C which govern who may receive health services from IHS Under that proposal an eligible person would have to be: (1) A member of, or eligible for membership in, a Federally recognized tribe, (2) of one-quarter (¼) or more Indian or Alaska Native ancestry, and (3) reside within a designated health service delivery area. If the person is not a member of, or eligible for membership in, a federally recognized Indian tribe, then the person would have to be of one-half (½) or more Indian or Alaska Native ancestry, and reside within a designated health service delivery area.

Interested persons were given until October 8, 1986 to comment on the proposed rule. In addition, during this 120 day comment period, the IHS was to hold public meetings at selected locations throughout the country to receive comments on the proposal. Over 90 such meetings have been held.

A large number of public comments have been received and most meetings have been well attended. In addition, comments have been received from members of Congress, Congressional Committees, as well as State and local officials. All these are indicative of both intense interest and the controversial nature of portions of the proposal. Eligibility criteria for governmental programs are, by their nature, sensitive. This proposal is also complex in that it attempts to deal with conditions that vary widely across the country and proposes changes in regulations most of which have been in effect for almost 30 years. In addition, we have received a number of specific requests from Indian tribes and organizations that the comment period be extended to cover the time of meetings which had been scheduled long before the publication of the proposal. The Indian tribes and organizations have not only expressed their concern that their members have this opportunity to express their views but also that the Indian tribes or organizations themselves need this input to formulate their comments.

Therefore, interested persons may, on or before November 7, 1986, submit written comments on the proposed rule to the above address. Comments may be submitted after this date but, though we shall make every effort to consider such comments before any final determinations are made, no assurance can be given that they will be processed in time to be acted upon.

Approved: October 8, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Otis R. Bowen,

Secretary.

[FR Doc. 86-23096 Filed 10-8-86; 1:16 pm]

BILLING CODE 4160-15-M

42 CFR Part 57

Programs for the Training of Physician Assistants and Grants for Physician Assistant Training Programs

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would: (1) Amend the current regulatory definition of programs for the training of physician assistants in accordance with section 701(8) of the Public Health Service Act (the Act) (42 CFR Part 57, Subpart I), as amended by Pub. L. 99-129; and (2) amend the existing regulations governing the Grants for Physician Assistant Training Programs, authorized by section 783 of the Act (42 CFR Part 57, Subpart H) to add provisions to encourage efforts to attract, maintain and graduate minority and disadvantaged students.

DATE: Comments must be received no later than November 10, 1986.

ADDRESS: Written comments may be addressed to Thomas D. Hatch, Director, Bureau of Health Professions, Health Resources and Services Administration, Room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Shirley L. Johnson, Deputy Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C25, 5600 Fishers Lane, Rockville, Maryland 20857; telephone 301 443-6190.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health,

Department of Health and Human Services, with the approval of the Secretary, proposes to amend Subpart I of 42 CFR Part 57 to implement changes in section 701(8) of the Act. The Health Professions Training Assistance Act of 1985, Pub. L. 99–129, amended section 701(8) by (a) substituting the term "primary health" for "health" to describe the type of care that graduates of physician assistant training programs must be capable of providing under the supervision of a physician, and (b) adding a requirement that physician assistant programs train students in primary care, disease prevention, health promotion, geriatric medicine, and home health care. The statute further directs the Secretary to consult with appropriate organizations and then promulgate regulations to implement the amendments. The American Medical Association, American Academy of Physician Assistants and the Association of Physician Assistant Programs provided comments to the Public Health Service in the development of the proposed new definitions.

The Department also proposes to amend the existing regulations governing the Grants for Physician Assistant Training Programs authorized under section 783 of the Act and codified at 42 CFR Part 57, Subpart H. This amendment is necessary to provide an added emphasis on the national need to train more minority and disadvantaged students. A discussion of the proposed regulatory amendments follows.

Subpart I.

Paragraph (a)(1) of § 57.803, "*Requirements.*", would be revised to specify that a program must be accredited as an Educational Program for the Physician Assistant. This is in response to the statutory amendment changing the term "health" care to "primary health" care in the definition of a program for the training of physician assistants. A program for the training of physician assistants must now have primary care as its training objective. Accreditation as an Educational Program for the Physician Assistant would require a program to provide training specifically in primary care activities. This accreditation requirement would eliminate other types of programs, such as surgeon's assistant training programs, which can presently receive grants for physician assistant training programs.

The statutory requirement for physician assistant programs to train students in primary care, disease prevention, health promotion, geriatric medicine and home health care would also be incorporated as a new requirement in § 57.803(f). Definitions for disease prevention, geriatric medicine, health promotion and home health care are proposed in § 57.802. Physician assistant programs provide training experiences in a number of different ways depending on factors such as: the type of clinical training sites available, State laws governing physician assistant education and practice, and the availability of faculty resources. Therefore, the Department proposes to define these terms broadly so that all eligible programs will have an opportunity to meet the new requirements.

It is proposed that the reference to the statute in § 57.801 and the authority citation be changed from "section 701(7)(B)" to "section 701(8)(B)." This is to conform to the appropriate citation required by Pub. L. 97–35.

Subpart H.

In § 57.706, "*Evaluation of Applications.*", paragraph (a) would be revised to include a new subparagraph (8) which will require the Secretary to assess each applicant's strategy to attract and graduate minority and disadvantaged students when determining whether to approve or disapprove competitive applications. A related change is proposed as a new subparagraph (2) in § 57.706(b). It is proposed that each applicant's efforts in attracting and graduating minority and disadvantaged students be used as a factor in determining priority in funding of applications. The current § 57.706(b)(2) would be renumbered § 57.706(b)(3).

These changes are being proposed in view of a continuing shortage of minority and disadvantaged primary health care providers.

Regulatory Flexibility Act and Executive Order 12291

These regulations governs financial assistance programs in which participation is voluntary. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that this rule is not a "major rule" under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

There are no information collection requirements in this regulation.

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study program, Emergency medical services, Grant programs-education, Grant programs-health, Health facilities, Health professions, Loan programs-health, Medical and dental schools, Scholarships and fellowships, Student aid.

Accordingly, 42 CFR Part 57, Subparts I and H are proposed to be revised as follows:

(Catalog of Federal Domestic Assistance, No 13.886, Grants for Physician Assistant Training Programs)

Dated: July 22, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: August 12, 1986.

Otis R. Bowen,

Secretary.

Subpart I—Programs for the Training of Physician Assistants

1. The authority citation for Part 57, Subpart I is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 701(8)(B), 90 Stat. 2247, as amended by 95 Stat. 913, 99 Stat. 525–526 (U.S.C. 292a(8)).

2. Section 57.801 is amended by revising paragraph (a) to read as follows:

§ 57.801 Purpose and scope.

(a) Section 701(8)(B) of the Public Health Act (42 U.S.C. 292a(8)(B)) requires the Secretary to develop regulations for programs for the training of physician assistants. The purpose of this subpart is to comply with this requirement.

* * * * *

3. Section 57.802 is amended by adding the following new definitions in alphabetical order:

§ 58.802 Definitions.

* * * * *

"Disease Prevention" is the health strategy which emphasizes the development of individual and community measures to protect against disease or environmental hazards and their harmful consequence.

* * * * *

"Geriatric Medicine" is the prevention, diagnosis, care and

treatment of illness and disability as required by the distinct needs of the elderly.

* * * * *

"Health Promotion" is the health strategy whch emphasizes individual responsibility for one's health, and community efforts to maintain and enhance well-being through lifestyle changes.

"Home Health Care" is the provision of medical and other health care services to maintain or restore the health of an ill or disabled person in their place of residence.

* * * * *

"Primary Care" means primary care, as defined in 42 CFR § 57.702.

* * * * *

4. Section 57.803 is amended by revising paragraph (a)(1), redesignating paragraphs (f), (g), and (h) as (g), (h), and (i), and adding a new paragraph (f) to read as follows:

§ 57.803 Requirements.

* * * * *

(a)(1) Be accredited as an Educational Program for the Physician Assistant by the American Medical Association's Committee on Allied Health Education and Accreditation; or

* * * * *

(f) Provide training to students in the areas of primary care, health promotion, disease prevention, geriatric medicine and home health care;

* * * * *

Subpart H—Grants for Physician Assistants Training Programs

1. The authority for Part 57, Subpart H is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 783(a)(1), Public Health Service Act, 90 Stat. 2314, and 99 Stat. 524 (42 U.S.C. 295g–3(a)(1)).

2. Section 57.706 is amended by revising paragraphs (a)(7) and (b)(1); redesignating paragraph (b)(2) as (b)(3); and adding new paragraphs (a)(8) and (b)(2) to read as follows:

§ 57.706 Evaluation of applications.

(a) * * *

(7) The potential of the project to continue in a self-sustaining basis after the period of grant support; and

(8) The adequacy of the project's plan to develop and use methods designed to attract, maintain minority and disadvantaged students to train as physician assistants.

(b) * * *

(1) The relative merit of the proposed project based on the factors in paragraph (a) of this section;

(2) The extent to which the applicant develops and uses methods designed to attract, maintain and graduate minority and disadvantaged students; and

* * * * *

[FR Doc. 86–23013 Filed 10–9–86; 8:45 am]
BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Special Rules Applicable to Public Land Hearings and Appeals

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Hearings and Appeals (OHA) in the Department of the Interior (DOI) proposes to revise its rules at 43 CFR Part 4, Subpart E, by adding a provision to establish a 30-day limit on the filing of requests for reconsideration of decisions in public land appeals and to make clear that action on such a request does not affect the effectiveness or finality of the decision for which reconsideration is sought.

DATE: Written comments on the proposed rule must be received by November, 10, 1986.

ADDRESS: Written comments on this proposed rulemaking should be mailed or hand-delivered to the Director, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: James R. Kleiler, Attorney-Adviser, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203; Telephone: (703) 235–3750.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Amendments

At present, reconsideration of certain OHA decisions such as those issued by the Interior Board of Land Appeals (IBLA) is governed by the general provisions of 43 CFR 4.21(c). While these provisions specify that a request for reconsideration must be "filed promptly," there is no more precise standard to inform a party when a request will no longer be considered to be timely. As a result, IBLA must evaluate each request not only as to the merits of the arguments in support of reconsideration but also as to the timeliness of the request under the nebulous criterion that it be "filed promptly." A time limit of 30 days would be consistent with the existing provision in 43 CFR 4.1276 applicable to reconsideration by IBLA of its final decisions issued under the authority of SMCRA. *See also* 43 CFR 4.126 (applicable to requests for reconsideration by the Board of Contract Appeals) and 43 CFR 4.315 (applicable to requests for reconsideration by the Board of Indian Appeals).

It is also necessary to clarify the Department's intent that the filing and disposition of a request for reconsideration does not affect the finality of the decision for which reconsideration is sought. This is particularly important in actions for which Congress has enacted a statute limiting the time in which a suit for judicial review may be filed, such as 30 U.S.C. 226–2 (1982) which provides: "No action contesting a decision of the Secretary involving any oil or gas lease shall be maintained unless such action is commenced or taken within ninety days after the final decision of the Secretary relating to such matters." With respect to this issue, 43 CFR 4.21(c) provides: "The filing and pendency of a request for reconsideration shall not operate to stay the effectiveness of the decision involved unless so ordered by the Director or an Appeals Board. A request for reconsideration need not be filed to exhaust administrative remedies." Although one may fairly infer from this language that a request for reconsideration does not toll the time in which a party may seek judicial review of a final decision, Federal courts have differed in their interpretations of the language. *Compare Geosearch, Inc.* v. *Andrus*, 494 F. Supp. 978 (D. Wyo. 1980), *with Lowey* v. *Andrus*, No. 79–3314 (D.D.C. July 28, 1980). The U.S. District Court in *Geosearch, Inc.*, interpreted the quoted language as was intended by the Department: "The clear and imperative language of the regulation states that an IBLA decision is final for the purpose of beginning the . . . appeal period for judicial review unless a stay has been ordered by the Director or the Appeals Board." 494 F. Supp. at 979. Mindful, however, of the contrary opinion expressed in *Lowey* v. *Andrus*, we seek to make it clear that the date of issuance of the decision for which reconsideration is sought is the effective date of final agency action, so that neither the filing of a request for reconsideration nor its denial would toll the time during which a party may seek judicial review of a final decision.

To accomplish the above purposes, OHA proposes to add a new rule at 43 CFR 4.403.

II. Future Rulemaking Actions

Issuance of these proposed rules is not intended to preclude further examination of OHA's rules at 43 CFR Subpart E.

III. Procedural Matters

Federal Paperwork Reduction Act

The proposed rules do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

The DOI has examined these proposed rules according to the criteria of Executive Order 12291 [Feb. 17, 1981] and has determined that they are not major and do not require a regulatory impact analysis because the rules only concern the reconsideration and finality of OHA decisions.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic effect on a substantial number of small entities because the rules simply concern the reconsideration and finality of OHA decisions.

National Environmental Policy Act

The Office of Hearings and Appeals has determined, on the basis of the categorical exclusion of regulations of a procedural nature set forth at 516 DM 2 Appendix 1, section 1.10, that the proposed rules will not significantly affect the quality of the human environment.

Drafting

The proposed rule was drafted by James R. Kleiler, an attorney-adviser with the Interior Board of Land Appeals in OHA.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure.

Dated: September 3, 1986.

Paul T. Baird,

Director, Office of Hearings and Appeals.

Accordingly, it is proposed to revise 43 CFR Part 4, Subpart E, as follows:

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

1. The authority citation for Part 4 continues to read as follows:

Authority: R.S. 2478, *as amended*, 43 U.S.C. 1201, unless otherwise noted.

Subpart E—Special Rules Applicable to Public Land Hearings and Appeals

2. Section 4.403 is added to 43 CFR Part 4, Subpart E, immediately after § 4.402 to read as follows:

§ 4.403 Finality of decision; reconsideration.

A decision of the Board shall constitute final agency action and be effective upon the date of issuance, unless the decision itself provides otherwise. The Board may reconsider a decision in extraordinary circumstances for sufficient reason. A petition for reconsideration must be filed within 30 days after the date of a decision. The petition must state with particularity the error claimed and include all arguments and supporting documents. The filing, pendency, or denial of a request for reconsideration shall not operate to stay the effectiveness or affect the finality of the decision involved unless so ordered by the Board. A request for reconsideration need not be filed to exhaust administrative remedies.

[FR Doc. 86-23015 Filed 10-9-86; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 86-367; FCC 86-400]

Private Sector Preparation and Administration of Commission Commercial Radio Operator Examinations

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission is considering proposing enabling legislation to Congress. The legislation would amend the Communications Act. It would authorize the Commission to delegate to a private organization responsibility for preparing and administering all of the Commission's commercial radio operator examinations. The organization, which would be selected through a competitive bidding process, could collect fees from examinees. This proposal is being considered to improve the quality and availability of commercial examinations. The Commission is attempting to restore commercial examination stature and services which have diminished following certain budget reductions.

DATES: Comments are due November 17, 1986. Reply comments are due December 2, 1986.

ADDRESS: Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon Martin, Public Service Division, Field Operations Bureau, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

This is a summary of the Commission's Notice of Inquiry, General Docket 86-367, Adopted September 18, 1986, and Released September 24, 1986.

The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services (202) 837-3800, 2100 M Street, Northwest, suite 140, Washington, DC 20037.

Summary of Notice of Inquiry

1. The Commission is considering proposing enabling legislation to Congress that would amend section 4(f) of the Communications Act. The amendment would allow the Commission to delegate the responsibility for preparing and administering its commercial radio operator examinations (commercial exams). These functions would be delegated to a single, professional private sector organization (private examiner).

2. We seek comments about whether permitting a private organization to devise and administer Commission examinations would violate any domestic or international laws or regulations. Both Communications Act and international provisions require that we *license* certain radio operators. However, we are not aware of any domestic or international laws or regulations which require that Commission employees prepare or administer commercial exams. Private examiner personnel would not be considered government employees for any purpose.

3. We are considering this proposal to improve the quality and availability of our commercial exams. Congress and the Commission have both expressed concern about how seldom the exams are updated. However, the Commission no longer employs anyone specifically to draft and revise commercial exams. In fact, all funding for administering the

commercial exam program has been eliminated from the Commission's budget as part of overall government fiscal reductions. The program itself has dwindled to a vestigial, part-time assignment for a few staff members. They spend a minimum amount of time conducting and grading existing exams and issuing licenses. As a result, exams are available at far fewer times and places. Funds are no longer available for travel or dedicated examination space to conduct tests. Commercial exams, which were once available weekly without any appointment, are now only offered quarterly, and then only at FCC offices. They usually require an appointment. The discontinuation of all remote examinations (which were administered outside Commission offices) has forced some applicants to travel hundreds of miles to a city with a Commission office.

4. We seek comments on what factors to consider should a private examiner be used. The private examiner would be selected through a competitive bidding process based on performance specifications. A contract would be awarded to whichever bidding organization could provide specified services most economically. The organization would be responsible for drafting and administering all of the Commission's commercial exams. The various commercial radio operator licenses issued by the Commission are described in FO Bulletin #4, dated February, 1986. The Bulletin is available from the Commission's Office of Congressional and Public Affairs.

5. We contemplate that the private examiner will be permitted to collect reasonable exam fees from applicants. Fees would be used to offset the costs of generating, printing, distributing, administering and evaluating commercial exams. Unlike our amateur volunteer examination coordinator program, a private examiner would be employing professionals to develop and administer commercial exams. Thus, examinees for the Commission's commercial licenses would pay examinations fees. Such fees are required for many other professional licenses, including legal and medical practitioners. The Commission would continue to bear license issuance and renewal costs, and other responsibilities as part of its program oversight. We invite public comment on whether the private examiner should be allowed to collect examination fees. If not, how else might they recoup administrative expenses?

6. Of course, we seek comments on general matters, including the ultimate issue of whether to propose enabling legislation. However, we are especially interested in comments concerning the following issues: how best to select and structure a private examiner organization; whether examination fees should be permitted; and whether domestic or international laws address the delegation that we are considering.

7. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act, Pub. L. 93-354, does not apply.

8. Pursuant to applicable procedures set forth in 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before November 17, 1986, and reply comments on or before December 2, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

9. This is an non-restricted notice and comment proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

10. It is Ordered, That the Secretary shall cause this summary of the Notice of Inquiry to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-23006 Filed 10-9-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-372, RM-5348]

Radio Broadcasting Services; Winona, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by L.F. Baechler, proposing the allotment of FM Channel 268A to Winona, Minnesota. This allotment could provide a second FM broadcast service for the community.

DATES: Comments must be filed on or before November 24, 1986, and reply comments on or before December 9, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Harry C. Martin
Reddy, Begley and Martin
2033 "M" Street, NW., Suite 500,
Washington, DC 20036, (counsel to the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-372, adopted September 19, 1986, and released October 2, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-23007 Filed 10-9-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-370, RM-5309]

Radio Broadcasting Services; Versailles, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 236A to Versailles, Missouri, in response to a petition filed by Mid-Mo Broadcasting Company, Inc. This allotment could provide a first FM broadcast service for the community.

DATES: Comments must be filed on or before November 24, 1986, and reply comments on or before December 9, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Mid-Mo Broadcasting Company, Inc.
Mr. Kenneth W. Raines, Sr.
R.R. #4, Box 86,
Eldon, Missouri 65026,
(petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634–6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–370, adopted September 17, 1986, and released October 2, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–23008 Filed 10–9–86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–371]

Radio Broadcasting Services; Georgetown, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to substitute Channel 293C2 for Channel 292A at Georgetown, South Carolina, and modify the license of Station WAZX(FM) to specify operation on the higher powered channel at the request of Seacoast Broadcasting Corp. The channel can be allocated in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.

DATES: Comments must be filed on or before November 24, 1986, and reply comments on or before December 9, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: Earl R. Stanley, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Ave., NW., Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–371, adopted September 17, 1986, and released October 2, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–23009 Filed 10–9–86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 197
Friday, October 10, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of two meetings of the Committee on Governmental Processes of the Administrative Conference of the United States, to be held at 9:30 a.m. on Friday, October 17, and at 9:30 a.m. on Thursday, October 23, 1986 at the office of Covington and Burling, 1201 Pennsylvania Avenue, NW. (11th floor), Washington, DC.

The Committee will meet to discuss the Administrative Conference's project on use by federal agencies of private attorneys. The subject has been studied for the Conference by Mark L. Alderman and David E. Landau, Esqs., of the firm of Wolf, Block, Schorr and Solis-Cohen of Philadelphia, Pennsylvania, and by Professor Ronald D. Rotunda of the University of Illinois College of Law.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information concerning this meeting, contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC (Telephone: 202–254–7065.) Minutes of the meetings will be available on request.

October 8, 1986.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 86–23087 Filed 10–9–86; 8:45 am]

BILLING CODE 6110–01–M

Resolution of Appeal From Agency Freedom of Information Act Decisions; Availability of Draft Report; Public Meeting

AGENCY: Administrative Conference of the United States, Committee on Judicial Review.

ACTION: Notice of Public Meeting; Availability of Draft Report.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States. The committee has scheduled this meeting to consider pending projects, including a draft report and recommendation prepared by Professor Mark H. Grunewald (Washington and Lee University, School of Law) on alternative methods of resolving appeals from agency denials of Freedom of Information Act requests for information.

DATES: Monday, October 27, 1986, at 1:30 p.m.

Location: Gelman Building, 2120 L Street, NW., Lower Level, Hearing Room No. 3, Washington, DC.

Public Participation: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC. 20037. Telephone: (202) 254–7065. Single copies of Professor Grunewald's draft report may be obtained free of charge by calling or writing the Office of the Chairman.

SUPPLEMENTARY INFORMATION: The Committee on Judicial Review previously considered a version of Professor Grunewald's report that focused solely on the desirability of establishing an administrative tribunal to resolve Freedom of Information Act disputes, as an alternative to federal district court actions. Though ultimately rejecting this alternative, the committee sought information and views on various other alternatives, including creation of an ombudsman-like entity to help resolve FOIA disputes. *See* ACUS Request for Public Comments, *Handling of Appeals from Agency Decisions in Freedom of Information Act Disputes*, 51 FR 10213 (Mar. 25, 1986). In his revised report, Professor Grunewald evaluates the ombudsman alternative and concludes that such an entity should be established on a limited, experimental basis.

List of Subjects—Administrative practice and procedure, Freedom of Information appeals.

Dated: October 8, 1986.

Stephen L. Babcock,

Executive Director.

[FR Doc. 86–23141 Filed 10–9–86; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Broadford Critical Area, Treatment RC&D Measure, Idaho; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334–1601.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact

statement is not being prepared for the Broadford Critical Area Treatment RC&D Measure, Blaine County, Idaho.

The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Stanley N. Hobson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Broadford Critical Area Treatment RC&D Measure will provide treatment to an actively eroding section of the west bank of the Big Wood River. Planned treatment to control the severe erosion and sedimentation problem includes 450 feet of rock and vegetative armor on the eroding bank.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Stanley N. Hobson. The FONSI has been sent to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the previous page.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: September 29, 1986.

Stanley N. Hobson,

State Conservationist.

[FR Doc. 86-22814 Filed 10-9-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-60]

Postponement of Final Antidumping Duty Determination: Brass Sheet and Strip From Canada

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from one of the respondents in this investigation, who accounts for a significant proportion of the exports of the merchandise under investigation, to postpone the final determination as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Based on this request, we are postponing our final determination as to whether sales of brass sheet and strip from Canada have occurred at less than fair value until not later than December 3, 1986.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION: Steven Lim or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washigton, DC 20230; telephone: (202) 377-5332 or 377-5288.

SUPPLEMENTARY INFORMATION: On April 7, 1986, we published a notice in the **Federal Register** (51 FR 11711 April 7, 1986) that we were initiating, under section 732(c) of the Act, (19 U.S.C. 1673a(c)), an antidumping duty investigation to detemine whether brass sheet and strip from Canada were being, or were likely to be, sold at less than fair value. On April 24, 1986, the International Trade Commission determined that there is a reasonable indication that imports of brass sheet and strip are materially injuring a U.S. industry. On August 22, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchanise (51 FR 30093 August 22, 1986). The notice stated that if the investigation proceeded normally, we would make our final determination by November 3, 1986.

Pursuant to section 735(a)(2)(A) of the Act, one of the respondents in this investigation requested an extension of the final determination date. The respondent is qualified to make such a request because it accounts for a significant proportion of exports of the merchandise to the United States. If an exporter who accounts for a significant proportion of exports of the merchandise under investigation properly requests an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are granting the request and postponing our final determination until not later than December 3, 1986.

This notice is published pursuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

October 6, 1986.

[FR Doc. 86-23027 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that porcelain-on-steel cooking ware from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value. We have also determined that critical circumstances do not exist with respect to imports of this merchandise from the PRC. We have notified the U.S. International Trade Commission (ITC) of our determination. The ITC will determine within 45 days of publication of this notice whether these imports are materially injuring, or threatening material injury to, a United States industry. We have also directed the U.S. Customs Service to continue to suspend liquidation on all entries of porcelain-on-steel cooking ware from the PRC that are entered, or withdrawn from warehouse, for consumption on or after May 20, 1986, the date of publication of the preliminary determination in the **Federal Register,** and to require a cash deposit or bond on entries of these products in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3174 or 377-2438.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that porcelain-on-steel cooking ware from the PRC is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff

Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). The weighted-average margin is shown in the "Suspension of Liquidation" section of this notice. We have also determined that critical circumstances do not exist with respect to imports of this merchandise from the PRC.

Case History

On December 4, 1985, we received a petition from the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation, on behalf of the domestic manufacturers of porcelain-on-steel cooking ware. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of porcelain-on-steel cooking ware from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports materially injure, or threaten material injury to, a U.S. industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on December 24, 1985 (50 FR 53352, December 31, 1985). On January 26, 1986, the ITC determined that there is a reasonable indication that imports of porcelain-on-steel cooking ware from the PRC are materially injuring a U.S. industry (51 FR 3862, January 30, 1986).

On January 27, 1986, we presented an antidumping duty questionnaire to China National Light Industrial Products Import and Export Corporation (CNLIP). Respondent was requested to answer the questionnaire in 30 days. On March 5, 1986, we amended our questionnaire and, at the request of the respondent, granted an extension of time for CNLIP to submit its response. Subsequently, an additional extension was granted, also at the respondent's request. We received a questionnaire response from CNLIP and its related partner in the United States, Excel United Corporation, on April 7, 1986. (Excel United is a joint venture between Excel Importing Corporation and the China Union Trading Corporation (CUTC). CUTC is wholly-owned by the government of the PRC.)

On May 8, 1986, we requested additional information, as well as a reformulation of certain types of production information, from the companies under investigation. Supplemental information was received on May 12, 1986. Also on May 8, 1986, we presented a questionnaire requesting that factors of production information be submitted by May 27, 1986.

On May 13, 1986, we made an affirmative preliminary determination that porcelain-on-steel cooking ware from the PRC is being, or is likely to be, sold in the United States at less than fair value (51 FR 18469, May 20, 1986). The notice stated that we would issue our final determination by July 28, 1986. On May 21, 1986, respondent requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. The respondent was qualified to make this request because CNLIP accounts for a significant proportion of exports to the United States of the merchandise under investigation. Accordingly, we extended the date of the final determination until not later than October 2, 1986 (51 FR 20862, June 9, 1986).

On May 23, 1986, petitioners amended the December 4, 1985, petition to allege that critical circumstances exist in the antidumping duty investigation of porcelain-on-steel cooking ware from the PRC, pursuant to section 733(e) of the Act. On June 3, 1986, we informed petitioners that we needed additional evidence to support their allegation that critical circumstances exist. On June 4, 1986, petitioners submitted further information to support their allegation, and the Department subsequently decided to investigate the allegation.

On July 3, 1986, we made a preliminary determination that critical circumstances did not exist with respect to imports of porcelain-on-steel cooking ware from the PRC (51 FR 25229, July 11, 1986).

On May 30 and June 26, 1986, respectively, Sino Development Corporation and Amerport H.K., Ltd. entered appearances in this investigation as interested parties. Sino Development Corporation, a joint venture of CNLIP and Amerex Trading Corp. (U.S.A.), is a U.S. brokerage firm which handles the importation of the subject merchandise from the PRC. Amerport H.K. Ltd. is a Hong Kong-based exporter of porcelain-on-steel cooking ware from the PRC.

On June 12, 1986, we verified the questionnaire responses as they related to the exporter's sales price expenses claimed by Excel United and also the prices charged to unrelated purchasers.

On August 4 and 13, 1986 we received responses to our factors of production questionnaire.

From August 11 through August 28, 1986, we attempted to verify the April 8, August 4 and 13 responses, in addition to gathering cost information for the PRC's factors of production in Thailand.

We conducted a public hearing on September 8, 1986.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. These products are currently provided for in items 654.0815, 654.0824, and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchenware, currently reported under item 654.0828 of the TSUSA, is not subject to this investigation. We investigated sales made in the period July 1 through December 31, 1985.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value.

United States Price

In accordance with section 776(b) of the Act, we used the best information available to represent the United States price. In this case, the best information available to us was the weighted-average price of the subject merchandise imported during the review period as shown in the Department's import statistics and verified price information submitted by Excel United.

When we received the initial response to our questionnaires on April 7, 1986, we were aware that the volume of U.S. sales during the review period reported by CNLIP was significantly less than the volume of imports recorded in U.S. government statistics. Because of the substantial disparity between the U.S. sales reported by respondent and our import statistics, we made several efforts to obtain further information regarding the means by which the subject merchandise is sold to the United States.

On May 1, 1986, we wrote to the Embassy of the People's Republic of China and requested that the government attempt to identify all PRC-based exporters of the subject merchandise to the United States during the review period. We also asked if the government kept any records which would indicate the final destination of goods exported from the PRC. On May 27, the Embassy responded that the Shanghai and Tianjin branches of CNLIP

are the only ones which export the subject merchandise to the United States and that only the Shanghai branch had export sales to the United States during the review period. The Embassay also stated that the government did not keep statistics which would identify the destination of the products under investigation.

On May 30, 1986, we wrote to the respondent asking for an amplification of the information in the record regarding CNLIP's U.S. sales. We asked for an explanation of the means, if any, by which CNLIP would learn, during the course of sales negotiations with Hong Kong trading companies, of the final destination of the merchadise. We never received a response to our May 30 letter.

Because of the discrepancy between the volume of sales reported and the U.S. import statistics, the question of whether CNLIP had reported all its U.S. sales became a major verification issue. In our verification outline, we informed CNLIP that we would "want to discuss at length the circumstances and details regarding the terms on which CNLIP sells the subject merchandise to buyers other than Excel, including Hong Kong trading companies."

At verification in the PRC, we were told that much of the information we requested to see was unavailable because neither the branches nor the headquarters of CNLIP organized their records in such a way as to document the statements in the response that all U.S. sales during the review period were reported, and accounted for, by CNLIP's Shanghai branch. We did examine documents pertaining to CNLIP's sales through Excel United and the Shanghai branch's sales to Amerport.

Section 776(b) of the Act states that the Department "shall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available." The inability of the respondent to produce information which would provide the basis for a full and complete verification of the statements in the response that CNLIP Tianjin did not make any U.S. sales during the review period, and that CNLIP reported all its U.S. sales during the review period, justifies the use of best information to determine United States price.

Because we were unable to develop information in the record of this investigation which would explain the disparity between U.S. government import statistics and the volume of sales reported by CNLIP Shanghai in the April 7, 1986, response, we do not believe that United States price is appropriately based solely on the exporter's sales price transactions reported by Excel United and CNLIP Shanghai. Because we were able to verify all Excel United's sales during the review period and their associated expenses, and because we are satisfied that the Excel United figures were not selectively submitted, we are including these sales, proportionate to the amount of entries of the subject merchandise during the review period, in our calculation of United States price.

For Excel United's exporter's sales price transactions, we deducted ocean freight and insurance, U.S. customs broker handling fees, U.S. import duty, U.S. inland freight and insurance expenses, U.S. advertising expenses, U.S. warehousing costs, and other miscellaneous U.S. selling expenses.

For imports not included in the reported sales through Excel United, we calculated United States price as the FOB value of imports of porcelain-on-steel cooking ware from the PRC as reported in the Department's IM–146 data.

Foreign Market Value

We calculated foreign market value in accordance with section 773(c) of the Act [19 U.S.C. 1677b(c)].

Petitioners alleged that the economy of the PRC is state-controlled, and, therefore, that home market sales of the subject merchandise may not be considered as a basis on which to determine foreign market value pursuant to section 773(a) of the Act (19 U.S.C. 1677b(a)). Upon analysis of available information, including briefs submitted by the petitioners and respondent, we have concluded that the economy of the PRC is state-controlled for purposes of this investigation because prices and production levels of porcelain-on-steel cooking ware, as well as prices of factors of production, are government controlled.

As a result, section 773(c) of the Act (19 U.S.C. 1677b(c)) requires us to use either the prices or constructed value of such or similar merchandise in a non-state-controlled-economy country. Section 353.8 of our regulations establishes a preference for foreign market value based upon sales prices. It further stipulates that, to the extent possible, we should determine sales prices on the basis of prices in a non-state-controlled-economy country at a stage of economic development comparable to that of the state-controlled-economy country.

We determined that Egypt, India, Indonesia, Morocco, Pakistan, the Philippines and Thailand are countries at the most comparable stages of economic development to the PRC, and it would, therefore, be appropriate to base foreign market value on their prices. We sent questionnaires to known manufacturers of porcelain-on-steel cooking ware in those countries who were identified by us in a timely manner (see the "Comment" section of this notice). None of the manufacturers we contacted replied to our questionnaire or provided any information.

On May 7, 1986, we sent a questionnaire to CNLIP asking for detailed factors of production information from all PRC manufacturers of the subject merchandise. We did so in order that we might base foreign market value on constructed value based on verified PRC factors of production valued in a non-state-controlled-economy country at a comparable level of economic development in accordance with § 353.8(c) of our regulations. We received a response to our May 7 questionnaire on August 4, 1986.

On August 8, 1986, we sent a deficiency letter to CNLIP requesting amplification of the information in the August 4 submission. On August 13 we received supplemental factors of production information, and on August 14, 15 and 20 we attempted to verify the factor of production information. We were unable, however, to verify satisfactorily the factors of production information submitted by CNLIP. Therefore, we were unable to calculate constructed value on the basis of costs in another country.

Lacking home market prices from non-state-controlled-economy countries at a comparable level of economic development and lacking information needed to calculate constructed value, we have based foreign market value on average prices of imports of the same class or kind of merchandise into the United States from Japan, Canada, Switzerland, the Federal Republic of Germany, the Netherlands and France.

According to the Department's IM–146 import statistics, 24 countries exported the subject merchandise to the United States during the review period. Import prices from countries currently the subject of porcelain-on-steel cooking ware antidumping and/or countervailing duty investigations by the Department were not considered as part of our foreign market value determination. We also eliminated imports from countries with known export subsidies and from non market-economy countries.

Negative Determinaton of Critical Circumstances

Petitioners alleged that imports of porcelain-on-steel cooking ware from the PRC present "critical circumstances." Under section 735(a)(3) of the Act, "critical circumstances" exist if we determine that:

(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(iii) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We generally consider the following data in order to determine whether massive imports have taken place: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

For purposes of this finding, we analyzed recent trade statistics on import levels for porcelain-on-steel cooking ware from the PRC for equal periods immediately preceding and following the filing of the petition. We also took into consideration seasonal factors and the share of domestic consumption accounted for by imports from the PRC. Based on our analysis of recent import statistics, we find that imports of the subject merchandise from the PRC have not been massive over a relatively short period.

Since we do not find there have been massive imports, we do not need to consider whether there is a history of dumping or whether importers of this product knew or should have know that it was being sold at less than fair value.

Therefore, we determine that critical circumstances do not exist with respect to imports of porcelain-on-steel cooking ware from the PRC.

Verification

As provided in section 776(a) of the Act, we verified the date pertaining to sales through Excel United which we used in making our final determination.

Petitioners' Comments

Comment 1: Petitioners allege that critical circumstances exist with regard to imports of porcelain-on-steel cooking ware from the PRC.

DOC Response: We disagree. See our discussion above in the "Negative Determination of Critical Circumstances" section of this notice.

Comment 2: Petitioners argue that the PRC is a state-controlled economy as defined in secton 773(c) of the Act and that sales of the subject merchandise in that country do not permit a determination of foreign market value.

DOC Response: We agree. See our discussion above in the "Foreign Market Value" section of this notice.

Comment 3: Petitioners argue the April 7, 1986, questionnaire response should be rejected because CNLIP did not report all its exports to the United States during the review period. Petitioners state that CNLIP reported only sales of individual cookware items to one importer, Excel United, while the majority of these imports are sold in seven-piece sets. Petitioners allege that CNLIP had knowledge of U.S. sales during the review period, but self-selected only those to Excel in an effort to focus the Department's analysis on only one importer, whose sales are not representative of the overall market for this merchandise.

DOC Response: We were unable to verify that CNLIP had reported all sales during the review period which it knew on the date of sale were destined for the United States. Therefore, we used a weighted-average of import prices from the PRC and Excel United's verified and adjusted prices as United States price, as discussed in the "United States Price" section of this notice.

Comment 4: Petitioners argue that the reported sales of Excel United are not exporter's sales price transactions because the sales are not "for the account of" CNLIP. Petitioners also argue that Excel United's sales to supermarkets should not be compared to foreign market value based on sales to suppliers of other levels of trade, such as department and discount stores.

DOC Response: We disagree. We treated Excel United's U.S. sales as exporter's sale price transactions because CNLIP and CUTC are both owned by the government of the PRC and CUTC has an ownership position in Excel United. With regard to whether Excel United's prices to supermarkets should be compared to foreign market value based on sales to different kinds of retailers, our decision to base foreign market value on import statistics makes it impossible to adjust for level of trade differences. Nor do we have the information to adjust those prices, even if it were appropriate for differences in level of trade.

Comment 5: Petitioners argue that United States price should be determined from the average import values, on a per-pound basis, as indicated in the Department's import data, as the best information available.

DOC Response: We determined that prices per piece of PRC imports of the subject merchandise calculated from the Department's import data and Excel United's adjusted prices were the appropriate bases for United States price in this investigation. Sales of the subject merchandise are valued on a per piece basis. Therefore, our price comparisons were made on the same terms.

Comment 6: Petitioners argue that the Department should not use surrogate producer prices for foreign market value in this investigation because: (a) Appropriate surrogate information is not available, (b) information submitted by respondents and interested parties is untimely and unverified, and (c) information from surrogates selected by respondent and/or interested parties would be biased.

DOC Response: Despite the Department's efforts to identify surrogate producers of porcelain-on-steel cooking ware in countries at a level of economic development comparable to that of the PRC, we were unsuccessful in locating any producers willing to answer our questionnaires.

Surrogate producers suggested by other parties to this investigation were identified very late in this investigation. (In one case, a Philippine surrogate was suggested to the Department while our verification of questionnaire responses was underway in the PRC.) There was a question raised as to the relationship between another suggested surrogate and an interested party in this investigation. It also would have been impossible to verify any information submitted by those suggested surrogate producers so near the date of our final determination. Because we were unable to obtain responses from surrogate producers of porcelain-on-steel cooking ware in countries at a level of economic development comparable to that of the PRC, we based foreign market value on the prices of certain imports, as described above.

Comment 7: Petitioners aruge that CNLIP's factors of production questionnaire responses should be rejected as untimely, deficient and unverified.

DOC Response: At verification, little of the data submitted in the factors of production responses could be corroborated. Company officials were unable to provide documentation which would support the input data submitted. Pursuant to section 776(a) of the Act, the Department must verify all information used in our final determination. Accordingly, we are unable to use the

factors of production responses submitted by CNLIP.

Comment 8: Petitioners argue that foreign market value should be based on the sales prices of General Housewares Corporation in the U.S. market or, alternatively, on import values from a basket of countries.

DOC Response: We have determined that import prices, as described above in the "Foreign Market Value" section of this notice, are the appropriate basis for determining foreign market value. Section 353.8 of our regulations states that prices or constructed value in the United States will be used only if prices or costs of another non-state-controlled-economy country producer cannot be identified.

Comment 9: Petitioners argue that CNLIP prevented the Department's verification of Shanghai and other CNLIP branch U.S. sales, as well as sales to Excell United.

DOC Response: We were unable to verify satisfactorily the response submitted by CNLIP as it related to all its U.S. sales during the review period. Therefore, we did not accept the sales reported in the response as representing the universe of CNLIP's U.S. sales during the review period. We did include, however, Excel United's sales information in our calculation of United States price because we verified that information. See the "United States Price" section of this notice.

Comment 10: Petitioners argue that the Department's best information rule is also a "rule of adverse inference."

DOC Response: We disagree that any reliance or use by use of best information available under the Act and our regulations automatically requires us to draw inferences adverse to the respondent in this investigation. Best information is not necessarily that information most prejudicial to the respondent. Instead, it may be that information in which the Department has reasonable and justified confidence and which is reasonably accessible given the time constraints of antidumping investigations.

Respondent's Comments

Comment 1: Respondent argues that the Department's preliminary determination of foreign market value was not based on best information available as required by the Act because we did not use surrogate prices or constructed value.

DOC Response: We disagree. The Department sought surrogate information but was unable to obtain any such information before the preliminary determination. Our preliminary determination, based on average import prices into the United States, complied with the requirements of section 773(c)(1)(B) of the Act.

Comment 2: Respondent argues that the Department improperly used import data from a basket of countries as foreign market value in the preliminary determination because the countries chosen do not have economies comparable to the PRC and because the import data lacks necessary detail.

DOC Response: When the Department is unable to find a surrogate willing to provide price and/or cost data, we often rely on the prices of imports into the United States. In considering which countries' imports to use in calculating foreign market value, we generally disregard imports from countries that are also under investigation, non-market-economy exporters and countries believed to maintain export subsidies. In excluding these countries, we may be forced to use imports from countries that are not at a level of economic development comparable to that of the PRC.

In this proceeding, we have chosen the price of imports from six countries as the basis for foreign market value. This is because, of the countries not excluded for the reasons noted above, we cannot determine that one or the other of these six countries is more appropriate.

Comment 3: Respondent aruges that the Department's preliminary determination of sales at less than fair value is not supported by substantial evidence and that the Department failed to seek diligently surrogate producer price information.

DOC Response: We disagree. See the "Case History" and "Foreign Market Value" sections of this notice and our response to Respondent's comment 2.

Comment 4: Respondent argues that its sales questionnaire response completely reported all sales of the subject merchandise which it knew were destined for the United States.

DOC Response: As discussed in the "United States Price" section of this notice, the Department considered that there is a significant coverage problem in this investigation. We attempted to obtain further information, and a clarification of information in the record, from the respondent both before and during the verification. Because we were unable to verify the CNLIP had reported all sales during the review period which it knew were destined for the United States, we used the data in the response that was specific to Excel United, in combination with data from the Department's import statistics, to calculate United States price. See also our response to Petitioners' comment 3, above.

Comment 5: Respondent argues that sales by Excel United to unrelated U.S. purchasers are exporter's sales price transactions which the Department properly used as United States price at the preliminary determination and should use at our final determination.

DOC Response: See our response to Petitioners' comment 4, above.

Comment 6: Respondent argues that the Department unjustifiably failed to use surrogate producer information in calculating foreign market value. Respondent particularly cited Sri Lanka, the Philippines, Thailand, Mexico and Hong Kong as appropriate surrogates.

DOC Response: See our response to Interested Parties' comment 5 concerning Sri Lanka and the Philippines. We do not consider Mexico and Hong Kong to be at a level of economic development comparable to that of the PRC and, therefore, would not normally use prices in those countries for calculating foreign market value. We sent questionnaires to producers in Thailand and we did not receive any responses.

Comment 7: Respondent argues that, if the Department shoud calculate a dumping margin based on PRC sales of the subject merchandise in addition to those through Excel United, separate margins should be determined for Excel United and all others.

DOC Response: We disagree. To the best of our knowledge the various branches of CNLIP account for all the exports of porcelain-on-steel cooking ware from the PRC. We do not believe it is appropriate to calculate one rate for certain of CNLIP's sales and another rate for other of CNLIP's sales. We have, however, included the margins of CNLIP's sales through Excel United in calculating the weighted-average margin.

Comments of Interested Parties

Comment 1: Amerport H.K., Ltd. and Sino Development Corporation, interested parties in this investigation (hereinafter "Amerport") argue that critical circumstances do not exist in this case because there is no history of dumping, importers did not know that the merchandise was being sold at less than fair value, and there have not been massive imports in a recent period.

DOC Response: We agree that critical circumstances do not exist. See the "Negative Determination of Critical Circumstances" section of this notice.

Comment 2: Amerport objects to the Department's rejection in advance of a voluntary sales response which would

have listed its sales of the subject merchandise during the review period.

DOC Response: It is the Department's policy to require that submissions reporting sales be filed before the preliminary determination. The Department, upon receiving a response to an antidumping duty questionnaire, must analyse it and allow interested parties an opportunity to comment. In addition, a thorough verification must be conducted in the respondent's home country. Because of these time constraints, the Department is unable to consider voluntary responses submitted after the preliminary determination. (See, "Fabric Expanded Neoprene Laminate from Japan: Final Determination of Sales at Less than Fair Value," 50 FR 23488, June 4, 1985.)

Comment 3: Amerport argues that CNLIP properly reported, in the April 7, 1986, response, all U.S. sales as defined in the Department's questionnaire. Amerport states that the verification showed that CNLIP does not know the destination of sales made to Amerport at the "date of sale."

DOC Response: As explained in the "United States Price" section of this notice, we were unable to verify whether CNLIP reported all U.S. sales made by all branches of CNLIP that export the subject merchandise to the United States. At verification we attempted, at length and in several different ways, to establish CNLIP's total sales and shipments of all CNLIP branches and those of CNLIP Shanghai during the review period. Because we were unable to verify whether the sales to Excel United represented all sales during the review period which CNLIP knew were destined for the United States, we could not calculate United States price solely on the basis of these sales. See the "United States Price" section of this notice.

Comment 4: Amerport argues that because CNLIP owns stock in CUTC, which in turn is part-owner of Excel United, the Department correctly determined United States price using the exporter's sales price method in the preliminary determination and should do so in the final determination.

DOC Response: See our response to Petitioners' comment 4.

Comment 5: Amerport argues that the Department should use the home market prices in a surrogate country to calculate foreign market value. Amerport further argues that, since the Department was unable to locate any surrogate producers, foreign market value should be based on price information from producers in Sri Lanka or the Philippines, as suggested to the Department.

DOC Response: As explained in the "Foreign Market Value" section of this notice, the Department sought information on surrogate producers in countries identified as being at a comparable level of economic development to the PRC. We did not receive any information in response to our inquiries. We rejected the Sri Lankan and Philippine producers suggested by Amerport because the question of a business relationship between Amerport and the Sri Lankan company was raised, and the identities of both producers were submitted too late in the investigation for us send questionnaires and verify any responses.

Comment 6: Amerport argues that the Department shoud not use Thailand as the surrogate in this investigation because the protected Thai market for porcelain-on-steel cooking ware permits Thai producers to maintain artificially high prices for the product in the home market, because the home market is very small, and in addition there is no surrogate producer of the subject merchandise available to provide the necessary information. Amerport further suggests that, if the Department does use information from Thailand to establish foreign market value, export, not domestic, prices should be used.

DOC Response: Because we did not find a surrogate producer in Thailand, and because we were unable to verify satisfactorily the factors of production information obtained in the PRC, the issue of whether Thailand is an apopropriate surrogate country in which to establish foreign market value for the subject merchandise is moot.

Comment 7: Amerport argues that, if the Department should calculate foreign market value using constructed value, we should use the input cost of porcelain-on-steel cooking ware in either Sri Lanka or the Philippines.

DOC Response: See our response to Interested Parties' comment 6, above.

Comment 8: Amerport argues that the Department should not reduce U.S. price for differences in the level of trade because the April 7, 1986 response already includes deductions specific to the nature of Excel United's sales to supermarkets.

DOC Response: We adjusted Excel United's sales prices as described in the United States price section of this notice without any adjustment for level of trade.

Comment 9: Amerport argues that, if the Department calculates foreign market value of the basis of the best information available pursuant to section 776 of the Act, we should use the import prices of the subject merchandise from Hong Kong and Korea. Amerport argues that the three countries suggested by petitioners (Japan, the Federal Republic of Germany and France), are not at the same level of economic development as the PRC and the procelain-on-steel cooking ware they produce is not similar to that exported to the United Stats from the PRC.

DOC Response: We disagree. See the Foreign Market Value section of this notice and our response to Respondent's comment 2, above.

Continuation of Suspension of Liquidation

In accordance with section 735 of the Act (19 U.S.C. 1673d (d)), we are directing the U.S. Customes Service to continue to suspend liquidation of all entries of procelain-on-steel cooking ware from the PRC that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of our preliminary determination notice in this investigation in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice.

Manufacturers/producers/exporters	Margin percentage
China National Light Industrial Products Import and Export Corporation	66.65
All others	66.65

ITC Notification

In accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry, within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding

will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on porcelain-on-steel cooking ware from the PRC which was entered, or withdrawn from warehouse, for consumption, on or after the date of suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is being published pursuant to Section 735(d) of the Act (19 U.S.C. 1673 (d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

October 2, 1986.

[FR Doc. 86-23036 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-508]

Porcelain-On-Steel Cooking Ware From Taiwan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that porcelain-on-steel cooking ware from Taiwan is being, or is likely to be, sold in the United States at less than fair value. We have also determined that critical circumstances do not exist with respect to imports of this merchandise from Taiwan. We have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue with the suspension of liquidation of all entries of porcelain-on-steel cooking ware from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after May 20, 1986, and to require a cash deposit for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-0189 or 377-0167.

Final Determination

We have determined that porcelain-on-steel cooking ware from Taiwan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). We made fair value comparisons on sales of the class or kind of merchandise to the United States during the period of investigation, July 1 through December 31, 1985. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice. We have also determined that critical circumstances do not exist with respect to imports of this merchandise from Taiwan.

Case History

On December 4, 1985, we received a petition from the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation, on behalf of the domestic manufacturers of porcelain-on-steel cooking ware. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports materially injure, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on December 24, 1985 (50 FR 53353, December 31, 1985). On January 26, 1986, the ITC preliminarily determined that there is reasonable indication that imports of porcelain-on-steel cooking ware from Taiwan are materially injuring a U.S. industry (51 FR 3862, January 30, 1986).

On February 6, 1986, we presented antidumping duty questionnaires to First Enamel Industrial Corp. (First Enamel), Tian Shine Enterprise Co., Ltd. (Tian Shine), Tou Tien Metal (Taiwan) Co., Ltd. (Tou Tien), Li-Fong Industrial Co., Ltd. (Li-Fong), Li-Mow Enamelling Co., Ltd. (Li-Mow), and Receive Will Industry Co. (Receive Will). Respondents were requested to answer the questionnaires within 30 days. On March 7, 1986, we amended our questionnaire and, at the request of the companies, granted a two-week extension of time for response submissions. Subsequently, a second two-week extension was granted, also at the companies' request. The companies submitted responses on March 28, 1986 (Tian Shine), April 11, 1986 (Tou Tien), and April 14, 1986 (Li-Fong, Li-Mow and First Enamel). Receive Will submitted a response on May 9, 1986, which was deemed not timely for consideration in our preliminary determination.

The department sent out supplemental questionnaires to Tian Shine on April 15, 1986, and to Tou Tien, Li-Fong, Li-Mow and First Enamel on April 28, 1986. We received additional information from Tian Shine on April 14, 1986, and from Li-Fong and Li-Mow on April 21, 1986. Tian Shine responded to our supplemental questionnaire on April 22, 1986.

On May 13, 1986, we made our preliminary affirmative antidumping (51 FR 18472, May 20, 1986). We stated in our notice that we expected to issue a final determination by July 28, 1986.

On May 16, 1986, respondents requested that the deadline for the final antidumping duty determination be extended to 135 days after the publication date of the preliminary determination in the **Federal Register**. We granted an extension on June 3, 1986 (51 FR 20862, June 9, 1986), and stated that we expected to issue a final determination no later than October 2, 1986. On May 23, 1986, petitioners alleged that respondents are selling porcelain-on-steel cooking ware in the home market, or where applicable, in third country markets, at prices which are below the cost of production. They further alleged that "critical circumstances" exist with respect to imports of porcelain-on-steel cooking ware from Taiwan.

On July 3, 1986, the Department issued a preliminary negative determination on the existence of critical circumstances (51 FR 25229, July 11, 1986).

From June 30 through July 24, 1986, we verified the information provided by the respondents at First Enamel, Tian Shine, Li-Fong, Tou Tien, Li-Mow, and Receive Will. On August 27, 1986, we held a hearing to provide all interested parties with an opportunity to comment on the preliminary determination.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are currently provided for in items 654.0815, 654.0824, and 654.0827 of the Tariff Schedules of the United States Annotated (TSUSA). Kitchenware, currently reported under item 654.0828 of the TSUSA, is not

subject to this investigation. This investigation covers the period from July 1, 1985, through December 31, 1985.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value for First Enamel, Tian Shine, Li-Fong, Tou Tien, Li-Mow and Receive Will, using data provided in the responses. For purposes of this final determination, we used the United States, home market and third-country sales data, and constructed value information provided in the responses, except where otherwise noted.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent United States price since the merchandise was sold to unrelated U.S. purchasers prior to importation. We calculated purchase price based on the packed, FOB, C&F, or CIF, duty-paid price to unrelated purchasers in the United States, as appropriate. We made deductions, where applicable, for foreign inland freight, ocean freight, insurance and brokerage charges, U.S. duties, bank charges, and U.S. inland freight. We also made an addition for duty drawback, where applicable.

For First Enamel, we made deductions for discounts and an addition for uncollected business and stamp tax. First Enamel also had a small quantity of exporter's sales price sales, which we disregarded.

For Tou Tien and Li-Fong, we made an addition for uncollected business stamp tax.

For Li-Mow and Receive Will, we made deductions for a stamp tax paid.

For Recieve Will, we added duty drawback on those sales for which duty drawback was verified. For sales on which duty drawback was not verified, the adjustment was not allowed.

Foreign Market Value

The petitioner alleged that sales in the home market by all the respondents were at prices below the cost of producing the merchandise. We calculated the cost of production for each product on a company-by-company basis, based on material and fabrication costs plus general expenses. We then applied our cost viability test to each category of such or similar merchandise on a company-by-company basis.

In accordance with section 773(a) of the Act, we used home market prices, third-country prices or constructed value to determine the foreign market value of the imported merchandise.

For First Enamel, Tou Tien and Li-Fong, we found a viable home market and sufficient sales in categories of such or similar merchandise above the cost of production to allow the use of home market prices to determine foreign market value in accordance with section 773(a)(1)(A) of the Act.

When comparing similar merchandise, we made adjustments for differences in physical characteristics based on differences in costs of production in accordance with § 353.16 of our regulations. We calculated the home market price on the basis of the packed FOB price to unrelated purchasers. We made deductions for foreign inland freight. We made an adjustment for differences in circumstances of sale for credit terms, in accordance with § 353.15 of our regulations. We deducted home market packing costs and added U.S. packing costs to the home market prices.

For First Enamel, we made a deduction for rebates. We offset commissions paid on U.S. sales with indirect selling expenses in the home market in accordance with § 353.15(c) of our regulations. For Tou Tien, we made adjustments for differences in circumstances of sale for credit and advertising expenses in accordance with § 353.15(b) of our regulations. We also made adjustments for commissions paid in both markets.

Since there was an insufficient volume of sales in the home market for Tian Shine, Li-Mow and Receive Will, we used third country sales to determine foreign market value for comparison to categories of such and similar merchandise that were above cost, in accordance with section 773(a)(1)(B) of the Act. When comparing similar merchandise, we made adjustments for differences in physical characteristics based on differences in costs of production in accordance with § 353.16 of our regulations. We calculated the third country price on the basis of the packed FOB duty-paid price to unrelated purchasers. We made deductions for foreign inland freight, brokerage and handling and an addition for duty drawback. We deducted third country packing costs and added U.S. packing costs to the third country prices.

For Tian Shine, we offset commissions paid on sales to the U.S. with indirect selling expenses incurred in the third country market in accordance with § 353.15(c) of our regulations. We also made deductions for bank charges incurred in the third country market. For Li-Mow and Receive Will, we deducted stamp tax paid and made adjustments for differences in circumstances of sale for credit terms in the U.S. and third country markets.

We used constructed value as the basis for calculating foreign market value when there were insufficient sales of such or similar merchandise above cost in the home market or third country. For Receive Will, we used the best information available for constructed value.

Cost of Production/Constructed Value

In determining the cost of production for the respondents, the Department relied on the submissions, when verified and appropriately valued, and adjusted such data when certain costs necessary for the production of porcelain-on-steel cooking ware were not included, verified, appropriately quantified or valued.

The Department determined that consumer packaging was part of the product under investigation. Since such packaging is part of the product sold to the purchaser, the materials, labor and factory overhead expenses related to this packaging was included in the cost of manufacturing.

In accordance with section 773(e) of the Act, in determining constructed value, we calculated the costs of materials, fabrication, general expense, profit and the cost of packing. The amounts added for general expenses were calculated from data provided in the responses, when verified. For those companies whose general expenses were less than the statutory minimum, we used the statutory minimum of 10 percent of the sum of material and fabrication costs. Where general expenses were greater than this minimum, we used the actual general expenses of the company.

For profit, the Department used the actual profit for the market being compared to the United States prices when such data was provided by the respondents, verified, and exceeded the eight percent statutory minimum. Since the companies manufactured predominantly porcelain-on-steel cookware, the Department used the average corporate profit or the eight percent statutory minimum, whichever was higher, when market-specific data were not provided.

First Enamel Industrial Corporation

The following adjustments were made to the cost of manufacturing:

1. Labor for rimming and assembly, submitted as packing labor, were included in the cost of manufacturing;

2. Amount of duty was included as part of the material costs.

3. In calculating general expenses, certain expenses, such as the annual company party, were included and expenses related to shipment, such as freight, brokerage, custom fees and commissions, were excluded;

4. The general expenses were reallocated over the cost of goods sold rather than by units sold.

For Tian Shine Enterprise Co., Ltd.

The following adjustments were made to the cost of manufacturing:

1. The cost of frit was adjusted to reflect more detailed information obtained during the verification;

2. Direct labor costs were increased to include the annual bonus;

3. Certain depreciation expenses were reclassified from SG&A to factory overhead;

4. Direct labor costs were decreased by the amount of packing labor;

5. General costs were allocated based on the costs of goods sold instead of on a labor amount.

Tou Tien Metal (Taiwan) Co., Ltd.

For Tou Tien, the cost of manufacturing was adjusted:

1. To recalculate the enamel costs to reflect more detailed information obtained during verification and to include duty and freight;

2. To include duty paid, where the costs of steel did not include such amounts;

3. To include materials inventory loss;

4. To include production and annual bonus and to allocate such amount on a time-in-process basis. Direct labor for packing was deducted;

5. To reallocate factory overhead on the basis of labor rate;

6. To reallocate general expenses on the basis of cost of goods sold and selling expenses, as verified, in the home market.

Li-Fong Industrial Company

The following adjustments were made to the cost of manufacturing:

1. Plant management, reclassified by the respondent as SG&A, was included in the costs of manufacturing;

2. The amount of duty was included as part of the material costs;

3. For general expenses, certain omitted expenses were included. Certain other expenses, such as inland freight and export brokerage, were excluded;

4. Imputed interest expenses related to interest-free loans to the company from its owners were included in the general expenses;

5. General expenses were allocated based on costs of goods sold rather than on the direct labor costs.

Li-Mow Enamelling Company, Ltd.

The following adjustments were made to the cost of manufacturing:

1. Direct labor related to packing was excluded;

2. Imputed interest expenses related to interest-free loans to the company from its owners were included in the general expenses;

3. Certain expenses, such as office equipment depreciation, were included;

4. The general expenses were allocated over cost of goods sold rather than over the production volume;

5. Direct labor related to packing was included in packing.

Receive Will Industry Company Ltd.

The Department attempted to verify the cost-of-production data submitted by Receive Will in its response. However, there was lack of sufficient supporting documentation for the data presented in the response to the extent that virtually none of the cost-of-production totals nor cost components could be verified. Additionally, throughout the verification, the respondent submitted numerous revisions to the data submitted in the response.

Therefore, since the Department could not rely on the cost data presented by Receive Will in its submission, the Department used best information available based on certain company records which were determined to be credible and estimates derived from other respondents' information.

Currency Conversion

In calculating foreign market value, we made currency conversions from New Taiwan dollars to United States dollars in accordance with § 353.56(a)(1) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

We verified all information used in making our final determination in accordance with section 776(a) of the Act. We used standard verification procedures, which included examination of relevant sales and financial records of the company.

Petitioners' Comments

Comment 1: Petitioners argue that the best information rule of adverse inference should be applied where respondents have made incomplete, inconsistent, untimely, or unverifiable submissions. Petitioners further argue that with respect to new information provided at verification, and with respect to inconsistent information provided in later responses, DOC should only use that information which is detrimental to respondents and not information which is beneficial, thereby rewarding respondents for making untimely, incomplete, or inconsistent submissions.

DOC Position: We disagree that any reliance or use by us of best information available under the Act and our regulations requires us automatically to draw inferences adverse to the respondent in this investigation. Best information is not necessarily that information most prejudicial to the respondent. Instead, it may be that information in which the Department has reasonable and justified confidence, and which is reasonably accessible given the time constraints of an antidumping investigation.

Comment 2: Petitioners state that respondents have made sales in the home market and in third country markets at prices which represent less than the cost of producing the merchandise and that these sales have been, (1) made over an extended period of time and in substantial quantities; and (2) are not at prices which permit recovery of all costs within a reasonable period of time. Therefore, they argue that the Department should disregard these sales when calculating foreign market value.

DOC Position: The Department has applied its standard cost viability test to determine which sales, if any, should be disregarded in the calculation of foreign market value. The test involves comparing home market or third-country prices of the merchandise under investigation to the cost of producing that merchandise during the period of investigation. If we find a significant portion of sales were at prices below the cost of production, we disregard these sales in our comparisons.

Comment 3: Petitioners argue that duty drawback should not be added to the United States price because respondents have failed to provide sufficient documentation for the allowance.

DOC Position: We disagree. We believe that respondents have provided us with sufficient documentation to justify the allowance of a duty drawback, except where otherwise noted. Moreover, in a situation involving similar facts, the Court of International Trade has upheld the Department's position on the appropriate level of documentation necessary to justify the allowance of duty drawback. See *Huffy Corp.* v. *United States*, Slip Op. 86-36, 11 CIT ____, March 27, 1986.

Comment 4: Petitioners agree with DOC's requirement that expenses related to consumer packaging be

separated from packing. However, petitioners argue that since respondents, Tian Shine, First Enamel, Li-Mow, and Li-Fong failed to separate these costs, and that since Receive Will separated material, but not labor costs, the Department should use the best information available to impute costs associated with consumer packaging to the cost of production.

DOC Position. The Department agrees that consumer packaging should be included in the cost of production. The Department used actual costs for consumer packaging. When such data was not separated from shipment packing, the Department allocated a portion of the total packing costs to consumer packaging based on information produced by other producers as the best information available.

Comment 5. Petitioners argue that fair value comparisons should be based on precise and complete product descriptions. and that, since consumer packaging is part of the product, the type of packaging should also be considered in selecting appropriate fair value comparisons.

DOC Position: We disagree with petitioners' contention that differences in consumer packaging that have not been accounted for in selecting appropriate fair value comparisons make these comparisons imprecise. We would, however, consider making an adjustment for differences in physical characteristics of the merchandise based on the difference in costs of consumer packaging in the two markets. In this case, we believe that the differences in cost between consumer packaging on products sold to the United States and products sold in the home market or in a third country market are too insignificant to merit consideration in accordance with § 353.23(a) of our regulations.

Comment 6: Petitioners contend that respondents did not provide precise and complete product descriptions. Petitioners argue that, since it is too late in the investigation to obtain verifiable supplemental information, the Department should draw inferences adverse to respondents where respondents have failed to provide precise and complete descriptions.

DOC Position. The Department regards the product description for First Enamel, Tian Shine, Tou Tien, Li-Fong and Li-Mow to be precise and complete. Review Will did not submit product descriptions accounting for all of its sales to the United States or to third countries. We used best information available for that company when such information was not provided.

Comment 7: Petitioners argue that the Department's grouping guidelines for such or similar merchandise are too broad and should be narrowed to allow for more utility and specialty differences in cookware items.

DOC Position: The Department's grouping guidelines for such or similar merchandise meet the criteria of section 771(16) (A) and (B) of the Act. Furthermore, while the grouping guidelines define the outer limits of what products may be compared to each other in making fair value determinations, actual comparisons are based on the most similar merchandise within the individual grouping.

Comment 8: Petitioners argue that factory overhead has been understated by (1) Tian Shine, Tou Tien, Li-Fong, and Receive Will who improperly classified certain expenses as corporate and general expenses rather than as factory overhead, and (2) Tian Shine and Receive Will who used unreasonably long useful lives to calculate depreciation expenses.

DOC Position: The Department did review and analyze the nature of the costs included in the categories of SG&A and the factory overhead to determine if these had been appropriately classified. When the Department noted misclassification such as plant management salaries, the costs were reclassified.

The Department also reviewed the "useful life" of the assets which were used as the bases to determine the depreciation.

When such life was within a reasonable range for the asset or a change in the life would have a *de minimis* effect on the costs, no adjustments were made. For Tian Shine no adjustment was determined to be necessary. Receive Will's costs of production were based on the "best information available."

Comment 9: Petitioners argue that critical circumstances do exist and request that the Department reconsider its preliminary negative determination by (1) using more current import statistics, and (2) comparing imports from Taiwan with domestic shipments in deciding whether there have been massive imports of the subject merchandise over a relatively short period of time, and not merchanically applying the Department's "15 percent rule," in making this determination.

DOC Position: We have examined current import statistics in evaluating whether critical circumstances exist. As stated in the "critical circumstances" section of this notice, we find that critical circumstances do not exist.

Comment 10: Petitioners argue that since several respondents have improperly reported products shipped or exported during the period of investigation, rather than products *sold* during that period, the Department may be required to reject these sales in favor of best information.

DOC Position: We verified sales based on the date the terms of sale were fixed by the contracting parties. Terms of sale may be established on the date of contract or on the date of shipment, therefore, the fact that respondents reported the data of sale as the date of shipment does not require that we reject these sales in favor of the best information available.

Comment 11: Petitioners state that, according to the verification reports, First Enamel, Li-Fong, and Li-Mow, failed to report actual profits on home market or third country sales of comparable merchandise, used in calculating constructed value. Therefore, petitioners argue, the Department should apply the best information rule of adverse inference and infer profits in excess of the eight percent statutory minimum.

DOC Position: The companies did not provide profit data by market. Since the companies are predominantly manufacturers of porcelain on steel cooking ware, the average corporate profit was used. When such amount did not exceed eight percent, the statutory minimum was used.

Comment 12: Petitioners argue that, as revealed in the verification reports, Li-Mow and Li-Fong received interest-free loans from their firms during the period of investigation, and, therefore, interest should be imputed to these companies in order to reflect the real cost of production.

DOC Position: The Department reviews transactions between the company and its related parties to determine if such transactions reflect a fair value. In this case, the loans to the company by its owners were interest-free. Such terms do not reflect an "arms-length price" for loans. Therefore, the Department imputed an interest expense, based on the amount of these loans, as part of the cost of production.

Comment 13: Petitioners argue that bonuses and any other fringe benefits should be included within direct labor in calculating cost of production and constructed value.

DOC Position: The Department agrees. All cost related to labor, bonus and fringe benefits are considered to be part of the labor expense.

Comment 14: With regard to Tian Shine, petitioners state that packing

charges, which were altered from the March 28 submission to the June 13 submission resulting in lower unpacked third country sales and higher unpacked United States prices, have not been explained.

DOC Position: Packing charges as reported in Tian Shine's June 13 sales response, which aggregated consumer and export packing, were verified. However, in comparing United States price to foreign market value, the Department adjusted foreign market value based on the verified export packing figures obtained in the Department's cost-of-production analysis.

Comment 15: With regard to Tian Shine, petitioners argue that duties and taxes should be included in all material costs and should be imputed, if not reported, in calculating constructed value.

DOC Position: Duties rebated upon exportation were included in the cost of production. When they are not included in the submitted costs, we adjusted these costs to reflect such duties. However, indirect taxes were not included in material costs pursuant to section 773(e)(1)(a).

Comment 16: With regard to Tian Shine, petitioners contend that spout costs for teakettles were not reported and, therefore, should be imputed in calculating costs of production and constructed values of teakettles.

DOC Position: Review of the total costs of Tian Shine reveals that the cost of spouts had been captured through the costs of scrap and labor costs. Therefore, no additional costs were added to the cost of production.

Comment 17: With regard to Tian Shine, petitioners argue that based on the sales verification report, the Department should deduct commissions paid in the United States market from United States price when calculating its dumping margin.

DOC Position: We disagree. Commissions are treated as circumstances of sale adjustments in our Regulations. Therefore, the adjustment is made to foreign market value.

Comment 18: With regard to Tian Shine, petitioners argue that respondent failed to specify products which have a third coat of enamel and that, therefore, the Department should add this cost to any products that may have received a third coat.

DOC Position: Although the response did not specify which products required a third coat of enamel, such information was subsequently provided to the Department. Therefore, the cost used for the final determination included the third coat of enamel for the appropriate products.

Comment 19: With regard to Tian Shine, petitioners argue that the response failed to reflect a year-end bonus, which should be included in the cost of manufacture.

DOC Position: We agree and have added such costs.

Comment 20: With respect to Tian Shine, petitioners argue that the Department should factor in year-end inventory adjustments in determining respondent's factory overhead in the final determination.

DOC Position: Since the year-end inventory adjustment is made to reflect appropriately the amount of materials used during the year, the adjustment was considered in the Department's calculation of costs.

Comment 21: With regard to Tou Tien, petitioners state that the Department correctly refused to deduct commissions from home market sales based on Tou Tien's April 11, 1986, response, which stated that commission is paid to employees of the firm. Petitioners argue that the Department should rely on this submission and continue to deny the claimed commissions, and not allow the June 13, 1986, response to be the basis for the final determination, wherein Tou Tien claimed that commissions on home market sales were paid to unrelated parties.

DOC Position: The Department verified that commissions paid in the home market were made to unrelated parties. Therefore, adjustments were made with regard to commissions in the home market.

Comment 22: With regard to Tou Tien, petitioners argue that direct selling expenses on home market sales were overstated in the revised June 13, 1986, response, where a six-fold increase in direct selling expenses was reported without an explanation. While petitioners suggest that the newly reported direct selling expenses may reflect advertising expenses in the home market, they argue that Tou Tien has overstated these costs to the extent it includes advertising for products not subject to the investigation.

DOC Position: We disagree. The Department tested the revised information in the submission. When such information could be appropriately supported and reconciled with the company's records, the data were used.

Comment 23: With regard to Tou Tien, petitioners argue that sales newly reported as export samples should not be deleted without explanation.

DOC Position: The Department verified that such sales were, in fact, export samples.

Comment 24: With regard to Tou Tien, petitioners argue that "technical service expenses," reported for the first time in the June 13, 1986, response, should not be allowed as an adjustment to foreign market value without explanation.

DOC Position: The Department verified that the items reported as "technical service expenses" were not, in fact, such, and did not allow them as an adjustment to foreign market value.

Comment 25: With regard to Tou Tien, petitioners argue that indirect selling expenses should not be deducted from foreign market value. Petitioners base this on Tou Tien's revised Home Market Sales Price Charts where these deductions were no longer made.

DOC Position: Indirect selling expenses are not deducted from foreign market value but are used to offset commissions paid in the United States market.

Comment 26: With respect to Tou Tien, petitioners argue that changes in reported cost of production: materials, direct labor, and factory overhead, should be rejected when no explanation is given.

DOC Position: The Department used information which it considered to be verified. Adequate explanation was required as part of this process.

Comment 27: With regard to Tou Tien, petitioners argue that the weighting methodology suggested by Tou Tien for allocating labor and overhead to individual products under investigation, should be rejected, since it has not been adequately explained.

DOC Position: The Department tested the quantity of labor apportioned to each product to the ratio of time in processing. There were no significant differences resulting in the labor apportioned to the products.

Comment 28: With regard to Tou Tien, petitioners argue that inventory write-downs, involving products subject to this investigation discovered during the Department's verification, should be included within the cost of materials.

DOC Position: Inventory write-downs are part of the costs incurred by the company to produce the merchandise. Therefore, such costs, when related to the product under investigation, were included in the cost of production.

Comment 29: With regard to Tou Tien, petitioners argue that duties and freight costs should be included within material costs and should be imputed if not otherwise reported.

DOC Position: The Department included such amounts in its calculations.

Comment 30: With regard to Tou Tien, petitioners argue that costs for

producing teakettle spouts were not reported and should be added (imputed if necessary) to the cost of producing teakettles.

DOC Response: We agree that the cost of spouts should be included in the cost of production. The costs to produce these spouts by the company were captured in the material, labor and factory overhead reported by the company. Therefore, no additional costs were added.

Comment 31: With regard to Tou Tien, petitioners argue that respondent reported average prices, rather than actual prices, on several United States and third country sales, and that actual prices must be used in the final determination.

DOC Position: We agree and used verified, actual prices in our final determination.

Comment 32: With regard to Tou Tien, petitioners note that for home market credit expense, it does not appear that the Department verified the number of days payment was outstanding on home market sales. Respondent suggests that it would have the Department use its standard payment terms to calculate credit expense. Petitioners argue that this approach is not in accordance with law and that Tou Tien's claimed adjustment for home market credit expense should be rejected.

DOC Position: We verified credit expenses as reported.

Comment 33: With regard to Tou Tien, petitioners state that it does not appear that the Department verified Tou Tien's allocation of indirect selling expenses in the home market. Respondent would have the Department assume that such selling expenses are identical for P–O–S cookware, stainless steel kitchen cupboards, and gas burners. Petitioners argue that this assumption does not appear to have been verified and accordingly, Tou Tien's allocation based on that assumption must be rejected.

DOC Position: Allocation of indirect selling expenses were not verified, but selling expenses, in total, were verified for constructed value.

Comment 34: With regard to Tou Tien, petitioners argue that the verification report indicates that respondent failed to deduct bank charges on United States sales, and that these, therefore, should be deducted in the final determination.

DOC Position: We agree and have deducted these bank charges from U.S. price in our final determination.

Comment 35: With regard to Tou Tien, petitioners argue that enamel frit costs were underreported by using an average cost for cover coat and ground coat costs, and that actual costs should be used in the final determination.

DOC Position: The Department agrees that average cost for cover coat and ground coat enamel did not adequately reflect the actual cost. Therefore, these costs were adjusted for the final determination.

Comment 36: With regard to Tou Tien, petitioners contend that the reported revenue derived from scrap sales was apparently based on "Materials Returned to Warehouse" slips. Petitioners argue that these slips do not indicate the revenue generated from scrap sales and accordingly, the claimed deduction for scrap sales should be rejected.

DOC Position: The Department verified the amount of scrap resulting from the production of cookware and included an appropriate amount of revenues for scrap sales.

Comment 37: With regard to Tou Tien, petitioners argue that since respondent's selling expenses in the home market could not be verified, they should be rejected in favor of the best information available.

DOC Position: The Department verified Tou Tien's direct selling expenses and used them for the final determination.

Comment 38: With regard to First Enamel, petitioners argue that commissions paid on United States sales should be deducted; but home market indirect selling expenses should be disallowed as an offset because they are greatly overstated.

DOC Position: We disagree. We verified home market indirect selling expenses. Section 353.15 of the Commerce Regulations specifies that reasonable allowance for selling expenses will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration. Therefore, in calculating foreign market value, we allowed indirect selling expenses in the home market to offset commissions paid in the United States market.

Comment 39: With regard to First Enamel, petitioners argue that, according to the verification report, a substantial number of United States sales were made to a related distributor in the United States and that these sales should be treated as ESP transactions with the related party's selling expenses being deducted in the calculation of United States price.

DOC Position: We disagree. Section 772 (b) of the Act requires that these sales be characterized as purchase price sales since the merchandise was purchased by an unrelated purchaser prior to the date of importation. See *Final Results of Administrative Review of Antidumping Duty Order: Certain Electric Motors from Japan* (48 FR 14719; April 5, 1983).

Comment 40: With regard to First Enamel, petitioners argue that its cost of production was understated by, (1) failing to allocate general and administrative expenses on the basis of cost of goods sold, (2) subtracting duty drawback from cost of production, and (3) failing to allocate the expense of the annual employee party to factory overhead and/or general expenses.

DOC Position: We agree and have made the appropriate adjustments.

Comment 41: With regard to Li-Mow, petitioners argue that its SG&A expenses were understated by (1) excluding certain SG&A expenses from its response, (2) allocating SG&A to unsold inventory, instead of allocating SG&A on a cost of goods sold basis, and (3) failing to impute interest on interest-free loans received from officers and owners of the company

DOC Position: We agree that expenses such as office equipment depreciation, public relations, stationery and travel are considered general expenses and have included them in the costs. Since the general and administrative costs are incurred for a specific period of time, these costs were allocated to the products sold during that time based on the costs to manufacture those goods. Interest expense on the interest-free loans made by the owners was included.

Comment 42: With regard to Li-Fong, petitioners argue that Li-Fong's submissions are "unacceptably obfuscatory" in that it is impossible to match products described in United States sales charts, home market sales charts, and cost of production charts.

DOC Position: We disagree. This response was verified.

Comment 43: With regard to Li-Fong, petitioners argue that the home market sales disclosed five weeks after the preliminary determination, were reported in an untimely fashion and should not be used unless their use is adverse to respondent.

DOC Position: We disagree. These sales were verified as reported and used as the basis for foreign market value.

Comment 44: With regard to Li-Fong, petitioners argue that its cost of production was understated by (1) failing to allocate certain plant management labor to factory overhead, (2) failing to include losses on sales of certain fixed assets within factory overhead and/or general expenses, (3) subtracting duty drawback, and (4) failing to input interest on interest-free

loans received from officers and owners of the company.

DOC Position: The Department agrees that the plant management labor should have been included in factory overhead, that the duty drawback should be part of the materials costs and that interest expenses should be in the cost of production.

Comment 45: With regard to Receive Will, petitioners contend that significant changes in duty drawback and packing adjustments were made in Receive Will's post-verification submission of August 9, 1986, and have not been explained. To the extent any of these changes have not been verified, the Department should only utilize new information that is adverse to Receive Will.

DOC Position: The Department did not use any of the unverified information presented in that submission.

Comment 46: With regard to Receive Will, petitioners argue that certain expenses should be reclassified from SG&A to factory overhead expenses.

DOC Position: The Department used best information for Receive Will and, therefore, this comment is not applicable. See the Foreign Market Value Section of this notice.

Comment 47: With regard to Receive Will, petitioners argue that the Department should substitute a five-year useful life for equipment, instead of that assigned by Receive Will, in calculating depreciation expense.

DOC Position: See DOC position on Petitioners' Comment 8.

Comment 48: With regard to Receive Will, petitioners argue that duty drawback which could not be substantiated at verification, should be disallowed on United States sales and should be imputed to third country sales.

DOC Position: With regard to Receive Will, duty drawback that could not be substantiated was not allowed on either United States or third-country sales.

Comment 49: With regard to Receive Will, petitioners argue that in calculating cost of production and constructed value, the Department should allocate costs over finished and first quality goods only, and treat semi-finished goods and seconds as by-products, since these were not reported. Petitioners further argue that only *verified* revenue generated from sales of semi-finished goods and seconds may then be used to adjust costs.

DOC Position: This comment is not applicable. See Foreign Market Value Section.

Comment 50: With regard to Receive Will, petitioners argue that benefits should be added to direct labor in computing cost of production and constructed value.

DOC Position: This comment is not applicable. See Foreign Market Value Section.

Comment 51: With regard to Receive Will, petitioners argue that the cost of production response is fundamentally flawed and deficient and could not be verified, and that the Department has no choice but to reject the response and use the best information as contained in the petition.

DOC Position: The Department attempted to verify the response submitted by Receive Will. However, the data presented in the response did not reconcile with the company's records. Therefore, the Department used "best information" for the cost of production of Receive Will.

Comment 52: With regard to Receive Will, petitioners argue that the sales verification report demonstrates that brokerage and handling fees on third country sales could not be substantiated.

DOC Position: We agree. Therefore, when comparing purchase price to foreign market value, we used the best information available for third-country brokerage and handling fees. In this case, the best information available was the highest per-unit brokerage and handling fees reported, and verified, on sales of identical or similar merchandise in the United States market.

Respondents' Comments

Comment 1: First Enamel, Tian Shine, Tou Tien, Li-Fong, Li-Mow and Receive Will argue that duty drawback is an appropriate adjustement to United States price and that the Department has verified the amount of duty drawback claimed in their responses.

DOC Position: See DOC Position to Petitioners' Comment 3.

Comment 2: First Enamel, Tian Shine, Tou Tien, Li-Fong, and Li-Mow contend that DOC verified their responses and determined that they were complete and consistent. Respondents argue that while there were corrections and adjustments to the responses, they were not too numerous or fundamental in terms of calculations or methodology as to require the DOC make its determination on the basis of best information. Respondents further argue that DOC should use *verified* information, whatever its relationship to prior information.

DOC Position: We agree. Omissions and errors in responses are frequently discovered on verification. Respondents' omissions and errors are not of a type or magnitude that would cause the Department to use petitioners' information or any other information as the best information otherwise available. However, the Department will only rely on information it has verified in making its final determination.

Comment 3: First Enamel, Tian Shine, Tou Tien, Li-Fong, and Li-Mow argue that section 773(e)(C) of the Act requires the Department to treat all packing, including consumer packaging, as one unit in the calculation of constructed value. Consumer packaging should not, therefore, be separated from export packing, and included with in the cost of production of porcelain-on-steel cookware.

DOC Position: We disagree. Section 773(e)(C) of the Act requires that the cost of all containers and coverings of whatever nature, and all other expenses *incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States* be added to the cost of manufacturing and profit in the calculation of constructed value. Since consumer packaging is not a cost incidental to shipment to the United States, it does not fall within section 773(e)(C) of the Act.

Comment 4: First Enamel, Tian Shine, Tou Tien, Li-Fong and Li-Mow argue that bank charges incurred on sales to the United States should not be deducted from the United States price because the Department has previously found such charges not to be costs "incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States."

DOC Position: We disagree. The Department has found that the bank charges incurred by the respondents on their United States Sales, are incident to bringing the merchandise to the place of delivery in the United States. Therefore, these charges constitute an appropriate deduction to the United States price under § 353.10(d)(2)(i) of the Department's regulations.

Comment 5: First Enamel, Tian Shine, Tou Tien, Li-Fong, and Li-Mow argue that a cost of production analysis is unwarranted since the petitioners have not alleged, and have offered no evidence, that there have been below-cost sales over an extended period of time in substantial quantities at prices not permitting the recovery of all costs within a reasonable period of time.

DOC Position: We disagree. Petitioners need not allege and provide evidence that below-cost sale have occurred over an extended period of time at prices not permitting the recovery of all costs within a reasonable

time, in order for the Department to accept an allegation of sales below cost. Section 773(b) of the Act requires only that the Department have reasonable grounds to believe or suspect that sales have been made at "prices which represent less than the cost of producing the merchandise" in order to accept an allegation. The Department must then conduct a cost of production investigation and disregard any home market or third country sales which meet the criteria respondents have enumerated.

Comment 6: First Enamel, Tian Shine, Tou Tien, Li-Fong, and Li-Mow argue that, if there were below-cost sales, DOC should treat all sales of the subject merchandise as a group, as opposed to individual product categories, in order to determine whether these sales amount to substantial quantities at prices not permitting recovery of costs.

DOC Position: We disagree. Section 773(a) of the Act requires that the determination of foreign market value be based on sales, or in the absence of sales, offers for sales of "such or similar" merchandise in the home market, if "such or similar" merchandise is sold or offered for sale in the market. Section 773(a)(1)(B) of the Act limits the use of home market sales as a basis for the determination of foreign market value to those situations in which the quantity of sales or offers for sales of "such or similar" merchandise in the home market is adequate. This test for the adequacy of home market sales is commonly called the home market viability test. Pursuant to § 353.4 of the Commerce Regulations, we grouped together all merchandise sold in the home market which is either "such or similar" to the merchandise sold to the United States, and then determined whether the quantity of this merchandise was adequate. Consistent with this statutory scheme, we then performed our test for sales at less than the cost of production on each of the "such or similar" product groupings. In this case, we consistently applied the home market viability test and the sales at less than the cost of production test to each category of "such or similar" merchandise.

Comment 7: Tian Shine and Li-Fong contend that the useful lives of equipment were verified and are in accordance with generally accepted accounting principles in Taiwan and with the law in Taiwan, and, therefore, should be accepted by the Department for its final determination.

DOC Position: The useful life periods used by the companies were reasonable and therefore, no adjustments were made.

Comment 8: Li-Fong and Li-mow argue against the imputation of interest on interest-free loans received from the owners and officers of the firms, as suggested by petitioners. Respondents argue that these loans are for all practical purposes a form of equity financing, a contribution to capital, with no expense to the companies, and, therefore, no expense should be imputed.

DOC Position: The Department disagrees and finds no reason why this debt should be considered equity since repayment of the principal was part of the terms for these loans. Therefore, the Department treats these loans as described in our response to Petitioners' Comment 13.

Comment 9: Tou Tien contends that costs of material and labor for the spouts for teakettles were accounted for and verified by DOC.

DOC Position: The cost to produce these spouts by the company were captured in the material, labor, and factory overhead as reported. Therefore, no additional costs were added.

Comment 10: Tou Tien argues that the valuation of steel scrap sales should be taken as an offset to material costs, and that both the quantity of scrap and its valuation were verified by DOC.

DOC Position: See Petitioners' Comment 36.

Comment 11: Tou Tien states that the weighting methodology devised to calculate labor costs was based on differences in labor processing time, which hence reflects the differences in labor usage.

DOC Position: The Department tested the quantity of labor apportioned to each product to the ratio of time in processing. There were no material differences resulting in the labor apportioned to the products.

Comment 12: Tou Tien states that the enamel frit costs provided in the response were weighted-average costs for both cover and ground coats. Respondent argues that the Department has been given information showing the costs of these two coats separately, and has been supplied with the duty and freight costs for the enamel frit vouchers, therefore, adjustments may be made if necessary.

DOC Position: The Department agrees that average costs for cover and ground coat enamel did not adequately reflect the costs. Therefore, these costs were adjusted for the final determination.

Comment 13: Tou Tien argues that small component parts were fully accounted for in the response under factory overhead, not under direct material costs, due to the way in which Tou Tien keeps its books. However, respondent was able to break out these small components parts' costs as they relate to specific products being produced, and the Department was able to verify this information. Thus, if such costs are to be assigned directly to the products being produced, a subtraction should be made from factory overhead to avoid double counting of costs.

DOC Position: The Department included such amounts in the factory overhead and did not attribute components to specific products.

Comment 14: Tou Tien states that direct labor costs in the response did not include some small production bonuses paid during the year, which were verified by the Department, but did include the annual spring bonus.

DOC Position: The Department made appropriate adjustments for the bonus which was not included.

Comment 15: Tou Tien argues that for those items which could not be directly assigned to a specific cost center, power and square footage were used to allocate certain overhead items. This allocation method was chosen because it would give an accurate reflection of the amount of factory overhead likely to be involved in the particular production centers for those items.

DOC Position: Most of the factory overhead could be specifically identified with the products. The balance of these costs was allocated based on labor since the Department believed this basis to reflect usage more appropriately.

Comment 16: Tou Tien argues that, with regard to SG&A expenses, the revised allocation method presented at verification, and verified by the Department, represents a reasonable basis of allocation, as it is based on a combination of factors which determine the actual distribution of SG&A expenses between both porcelain-on-steel and non-porcelain-on-steel products, as well as between export and home markets.

DOC Position: The Department used the selling expenses provided by Tou Tien and reallocated the general and administrative expenses on the cost of goods sold basis.

Comment 17: Receive Will argues that teakettle margins should be calculated and reported separately from cookware margins in a manner coincidental with the ITC's, which found that there were two separate like products in the preliminary phase of this investigation (ITC Pub. No. 1800, 1986). Respondent further argues that, although the ITC found contrary to this in porcelain-on-steel cooking ware from Spain (ITC Pub.

No. 1883, 1986), it should not change the result here.

DOC Position: We disagree. Section 731 of the Act requires the imposition of antidumping duties on the basis of the Department's finding that "a class or kind" of foreign merchandise is being, or is likely to be sold, at less than fair value. The ITC's "like product" determination is based on wholly different concerns and has little bearing on the Department's determination of what products constitute a single "class or kind" or merchandise for purposes of establishing a dumping margin.

Comment 18: Receive Will argues that in making product matches, the Department should compare teakettles to teakettles (as a class) and, separately, cookware to cookware (as a class). Respondent argues that the categories should be narrowed even further to the level of model names so that matches are made between identical merchandise.

DOC Position: When comparing purchase price to foreign market value, we followed the criteria for comparing such or similar merchandise set forth in section 771(16) of the Act. As stated in Respondents' Comment 17, we do not consider "teakettles" or "cookware" as separate classes or kinds of merchandise.

Comment 19: Receive Will argues that the DOC should use Receive Will's cost of production submissions to determine whether goods have been sold in the United States at less than the cost of production, and to determine constructed value.

DOC Position: The Department attempted to verify the cost of production submission. However, since the company's records did not confirm the data in the submission, the Department used the "best information" which was available. See the Foreign Market Value Section of this notice.

Comment 20: Receive Will argues that its cost of production submission, based on sales rather than production, was appropriate and should be accepted by DOC. Respondent contends that since the company produces only to order and not for inventory, sales data are a very close surrogate, and more useful for DOC purposes, that would be production data.

DOC Position: The Department could not verify the sales information used to determine the cost of production nor did such data reconcile with certain production information obtained during verification. Therefore, the theorical basis used is not a relevant consideration.

Comment 21: Receive Will states that, because it based its response on shipment date rather than contract date, cost of production for a new product, Kammy IV, was omitted. Respondent argues that for Kammy IV, the Department should use the cost of production for other teakettles bearing the same item number.

DOC Position: The company had sufficient time prior to and during verification to provide such data. Additionally the fact that a product has the same item number as another product would not be a basis to assume that the two products have the same costs.

Comment 22: Receive Will argues that it was correct to combine the cost of production data for the Copco and Monte Carlo style teakettles. Respondent states that the Copco and Monte Carlo teakettles use the same size raw material blank, have the same item number, and that visual inspection establishes that the teakettles are close in size, shape, and appearance.

DOC Position: Cost for each product must be provided. Combined costs for products would not serve to determine adequately if the individual products are being sold above their costs.

Comment 23: Receive Will argues that omission of the cost-of-production data for the Floral teakettle does not make the response incomplete, since this type of teakettle comprised only a small percentage of the quantity of Receive Will's United States teakettle sales.

DOC Position: The respondent had sufficient time prior to and during verification to provide such data. Omission of the cost-of-production data for a number of teakettles was another indication of the insufficiency of the response.

Comment 24: Receive Will states that it did not provide separate data on yields and material losses because it factored into its cost of production submission a percentage loss rate for raw material utilization. Receive Will argues that this percentage loss rate for raw material utilization should be used for the yields factor, if not as a direct measure, then as best information of that measure.

DOC Position: The Department relied upon certain credible material costs of the respondent in its calculation and, therefore, included the percentage loss rate provided by the respondent.

Comment 25: Receive Will argues that the failure to include semifinished and second-grade goods is not sufficiently substantial to require the use of best information for the cost of production. Respondent offers two alternatives for dealing with this issue, (1) DOC should modify the cost tables by factoring in the necessary data, which has been verified; or (2) DOC should simply not take into account the semifinished and second-grade material, the effect of which would raise Receive Will's cost of production.

DOC Position: It is not the Department's responsibility to develop the cost of production for the respondent. The Department is responsible for verifying the data submitted by the respondent. The fact that the costs which were developed by the respondent did not adequately account for semifinished and second-grade goods is another indication of the insufficiency of the response.

Comment 26: Receive Will argues that its methodology for calculating raw material costs, ascertaining the amount of steel in the finished product and multiplying that by the unit cost of steel, rather than beginning with raw material and factoring out waste and scrap, is appropriate and in accordance with the instructions in the questionnaire. Receive Will further argues, therefore, that although usage rates for steel do not correspond to internal company specifications for material usage, there is no deficiency in their response.

DOC Position: Materials costs must include the costs of scrap. The respondent's methodology did not appropriately account for this loss.

Comment 27: Receive Will argues that while the firm was not able to reconstruct perfectly its depreciation calculation at verification, it did arrive at figures very close to those submitted to the Department in the response and therefore, those submitted to the Department in the response and therefore, those figures should be used as the best information available.

DOC Position: The depreciation expense could not be reconciled to the company's records. Therefore, the Department could not determine the magnitude of the discrepancy.

Comment 28: Respondent states that the useful lives used to calculate depreciation expense were reported in the response and are correct, corresponding fully to those claimed on its tax returns and on it books of account.

DOC Position: See Respondents' Comment 27.

Comment 29: Receive Will argues that its methodology for determining per unit frit costs was correct and that, although these costs were not supported the response, both the methodology and the cost were verified. Respondent further argues that the difference between the DOC methodology in determining frit usage and Receive Will's own methodology should not case doubt on

the accuracy of its response, and that if the Department rejects this methodology in favor of its own, the data verified by DOC should be used as best information available.

DOC Position: The Department could not verify either the methodology or the costs.

Comment 30: Receive Will states that direct labor as reported in the response only included base pay and overtime. Fringe benefits were not included. Respondent argues that it reported direct labor in conformity with Taiwan's Generally Accepted Accounting Principles, and that if the Department believes it is necessary to reallocate among accounts, then all the necessary data are within the verification exhibits and the reallocation can be done.

DOC Position: The Department's questionnaire specifically requested that direct labor and all benefits be included in labor. It is not the Department's responsibility to develop the respondent's submission.

Comment 31: Receive Will argues that its August 9, 1986, submission, recasting information obtained during verification, and submitting it at the request of the Department, is accurate and should be used in its final determination.

DOC Position: We disagree, We did not verify Receive Will's August 9, 1986, submission which was submitted after verification, and we use only verified information on the record in making our final determination.

Comment 32: Tian Shine argues that for price-to-price comparisons, it is appropriate to compare products sold in the United States to the identical or most similar product sold in any third country market in which substantial sale of that product occur. Tian Shine notes that in the preliminary determination, product 2001 sold in the U.S. market was compared to a similar product sold in Canada when substantial sales of 2001 occured in France. Tian Shine therefore argues, that more appropriate third country product comparisons appear available than were used in the preliminary determination.

DOC Position: We disagree. Section 353.5 sets forth the criteria by which third country comparisons are to be made. The regulation establishes a preference for the selection of a single third country when adequate quantities of similar products are sold in that country. If, however, no single country can accommodate all of the categories of such or similar merchandise, third countries may be aggregated to provide the appropriate fair valve comparisons. This does not mean that if *identical* product matches can be found by making comparisons with numerous third countries, the department should deviate from the regulatory preference to use a few third countries as possible.

Comment 33: Tian Shine argues that the Department should use the verified, revised backing costs set forth in the June 3, 1986, submission, since at that time respondent was able to calculate more precisely its actual packing costs for each individual product, based upon actual materials and labor used for those products, as opposed to cost provided earlier on less precise and a less product specific basis.

DOC Position: We agree and have used the most recent verified amount.

Comment 34: Tian Shine argues that although it did not subtract the sales of scrap in calculating the cost of production in its questionnaire response, the ITA verified the scrap amount and should subtract if from material cost in determining cost of production of the final determination.

DOC Position: The scrap amount was not verified. Therefore, no adjustment was made.

Comment 35: Tian Shine argues that in its questionnaire response, the company incorrectly calculated the cost of the enamel cover cost by including the cost of a beige cover coat over both the inside and outside of a tea kettle. Tian Shine argues that since tea kettles have a cover coat on the outside only, the reported cost for the cover coat is overstated and an adjustment should be made to reduce the reported cost.

DOC Position: The Department use Tian Shine's enamel cost obtained as a result of the verification.

Comment 36: Tian Shine argues that duties and taxes were verified and were include in calculating material costs in virtually all cases. Respondent further argues that, although it inadvertently failed to include some duties and taxes with respect to a few purchases of color oxide, any change in costs as a result of this omission is immaterial and should be ignored.

DOC Position: The Department used the material costs as verified which included duties.

Comment 37: Tian Shine contends that spout costs in producing tea kettles were fully accounted for in the material and direct labor costs and were verified by the Department.

DOC Position: The spout costs were included as part of the scrap costs and part of the total labor amount.

Comment 38: Tian Sine states that labor costs were verified as were two end-of-year bonus payments, one of which was paid during the period under investigation and included in its response. Respondent argues that if the Department includes in labor costs the bonus payment made in 1986 for services in 1985, the bonus payment included in the response which was made in 1985 for services in 1984 should not be included in the labor costs, in order to be consistent in the treatment of bonuses.

DOC Position: The Department included the bonus payments applicable to the period of investigation.

Comment 39: Tian Shine states that standard costs for raw materials were provided in the response without specific allocation for variance, but with allowance for waste. The Department has verified actual usage and determined that any variances to figures reported were small. Respondent argues, therefore, that if the Department determines it necessary to make adjustments, they should be made for both positive and negative variances.

DOC Position: The Department considered all variances and made adjustments when appropriate

Comment 40: Tian Shine states that SG&A and interest costs were allocated using a labor ratio, which can be precisely calculated based on records kept by Tian Shine. Respondent argues that this is an appropriate method of allocation since labor usage proportions generally will reflect material usage, as well as factory overhead proportions for a particular product. Therefore, there was no understating of SG&A or interest costs in the response as such costs were fully allocated.

DOC Position: The Department allocated the SG&A and interest costs on the basis of cost of manufacturing.

Comment 41: Tian Shine contends that the entire cost of stainless steel rims was fully accounted for in the cost of materials and in direct labor costs.

DOC Position: We agree.

Comment 42: Tian Shine argues that the small positive variance in actual kilograms of steel used, which was verified by the Department, should be taken into account and the cost of production adjusted accordinly.

DOC Position: All variances were considered and adjustments were made when appropriate.

Comment 43: Tian Shine argues that the reconciliation of all products'

packing expenses in 1985 showed a positive variance with the 1985 financial statements as adjusted for inventory, and that this should be taken into account when calculating the cost of production.

DOC Position: All variances were considered and adjustments were made when appropriate.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of porcelain-on-steel cooking ware from Taiwan that are entered, or withdrawn from warehouse, for comsumption, on or after May 20, 1986, the date of publication of our notice of preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The cash deposit rate estalished in the preliminary determination shall remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufactuer/producer/exporter	Margin percentage
First Enamel Industrial Corp	9.04
Tian Shine Enterprise Co., Ltd	1.99
Tou Tien Metal (Taiwan) Co., Ltd	2.67
Li-Fong Industrial Corp	2.63
Li-Mow Enamelling Co., Ltd	6.48
Receive Will Industry Co., Ltd	23.12
All Others	6.82

Critical Circumstances

Petitioner alleged that imports of the subject merchandise from Taiwan present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist if we determine that:

(A) (i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following data in order to determine whether massive imports have taken place: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports. Based on our analysis of recent import statistics, we find that imports of the subject merchandise from Taiwan have been massive over a short period. Accordingly, we do not have to consider whether section 733(e)(1)(A) of the Act applies n this case. Therefore, we determine that critical circumstances do not exist with respect to imports of porcelain-on-steel cooking ware from Taiwan. We have notified the ITC of this determination.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry, within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on porcelain-on-steel cooking ware from Taiwan which were entered or withdrawn from warehouse for consumption on or after May 20, 1986, the publication date of the preliminary determination in the **Federal Register**, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

October 2, 1986.

[FR Doc. 86-23037 Filed 10-9-86; 8:45 am]

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[A-201-504]

Final Determination of Sales at Less Than Fair Value: Porcelain-On-Steel Cooking Ware From Mexico

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that porcelain-on-steel cooking ware from Mexico is being, or is likely to be, sold in the United States at less than fair value. We have also determined that critical circumstances exist with respect to imports of this merchandise by Troqueles y Esmaltes, S.A. and All Others. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption. This suspension of liquidation is ordered retroactively to February 19, 1986, for Troqueles y Esmaltes, S.A. all All Others, and the security amount established in our preliminary determination is no longer in effect. With respect to Cinsa, S.A., we have directed the U.S. Customs Service to continue with the suspension of liquidation of all entries of porcelain-on-steel cooking ware from Mexico that are entered, or withdrawn from warehouse, for consumption, on or after May 20, 1986, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Karen Busler, Office of Investigations, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; Tel: (202) 377-0167 or (202) 377-4198.

Final Determination

We have determined that porcelain-on-steel cooking ware from Mexico is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). We made fair value comparisons on sales of the class or kind of merchandise to the United States during the period of investigation, July 1 through December 31, 1985. The weighted-average margins are shown in

the "Suspension of Liquidation" section of this notice. We have also determined that critical circumstances exist with respect to imports of this merchandise by Troqueles y Esmaltes, S.A. and All Others.

Case History

On December 4, 1985, we received a petition from the Porcelain-On-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation, on behalf of the domestic manufacturers of porcelain-on-steel cooking ware. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of porcelain-on-steel cooking ware from Mexico are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on December 24, 1985 (50 FR 53352, December 31, 1985). On January 26, 1986, the ITC determined that there is reasonable indication that imports of porcelain-on-steel cooking ware from Mexico are materially injuring a U.S. industry (51 FR 3862, January 28, 1986).

On January 27, 1986, we presented antidumping duty questionnaires to Cinsa, S.A. (Cinsa) and Troqueles y Esmaltes, S.A. (TRES). Respondents were requested to answer the questionnaire in 30 days. On February 18, 1986, the Embassy of Mexico and the Mexican exporters requested an extension for response submissions. We orally granted the respondents a two-week extension. On March 7, 1986, we amended our questionnaire and, at the request of the companies and of the Embassy of Mexico, granted a second two-week extension of time (from March 7) for response submissions. Subsequently, a third two-week extension was granted, also at the respondents' request. The companies submitted responses on March 31 (Cinsa) and April 2 (TRES), 1986. The Department sent out supplemental questionnaires to Cinsa on April 12, and to TRES on April 14, 1986. We received additional information from both companies on April 21, 1986. On May 9, 1986, a letter requesting correction of deficient information as well as a reformulation of certain types of information was presented to the companies under investigation. We requested that the responses to our deficiency letter be submitted prior to verification. On June 11 and 16, 1986, the Department received the second supplemental responses of Cinsa and TRES, respectively.

On May 13, 1986, the Department preliminarily determined that porcelain-on-steel cooking ware from Mexico is being, or is likely to be, sold in the United States at less than fair value (51 FR 18470, May 20, 1986). The notice stated that we would issue our final determination by July 28, 1986. On May 16, 1986, respondents requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. The respondents were qualified to make this request because they were exporters who accounted for a significant proportion of exports to the United States of the merchandise under investigation. Accordingly, the period for the final determination was extended until no later than October 2, 1986 (51 FR 20862, June 9, 1986).

On May 23, 1986, petitioners amended the December 4, 1985, petition to allege that critical circumstances exist in the antidumping duty investigation of procelain-on-steel cooking ware from Mexico, pursuant to section 733(e) of the Act. During a telephone conversation on June 3, 1986, we informed petitioners that we needed evidence to support their allegation that critical circumstances exist. On June 4, 1986, petitioners submitted additional information to support their allegation, and the Department subsequently decided to investigate the allegation. On July 7, 1986, the Department preliminarily determined that critical circumstances do not exist in the antidumping duty investigation on porcelain-on-steel cooking ware from Mexico (51 FR 25228, July 11, 1986).

From July 10 through July 19, 1986, we verified the information provided by the respondents at TRES and Cinsa. In lieu of a hearing, petitioners and respondents simultaneously submitted initial briefs on August 26, 1986, and rebuttal briefs on September 4, 1986. We have taken these written views into consideration in this determination.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are currently provided for in items 654.0815, 654.0824, and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchenware, currently reported under item 654.0828 of the TSUSA, is not subject to this investigation. This investigation covers the period from July 1, 1985, through December 31, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise were made at less than fair value, we compared the United States price to the foreign market value for the companies under investigation, using data provided in their responses. Foreign market value was based on home market prices, except for sales of roasters by Cinsa, where we used third country (Canadian) sales.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent United States prices, since the merchandise was sold to unrelated U.S. purchasers prior to importation. We calculated purchase price based on the packed, F.O.B., or ex-factory, prices of first quality merchandise to unrelated purchasers in the United States, as appropriate. We have not made fair value comparisons of any second quality (*i.e.*, defective) merchandise, because these sales account for an insignificant portion of the sales to the United States. We verified that second quality merchandise was not sold at customary prices in the home market and that a wide variety of defects occurred during production. Hence, any comparisons of this merchandise would be unreliable and arbitrary.

To determine Cinsa's purchase price, we deducted insurance, foreign inland freight, brokerage, and discounts, and added duty drawback.

To determine TRES' purchase price, we made deductions for insurance, foreign inland freight, U.S. freight, and U.S. and Mexican brokerage charges.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we used home market prices to determine foreign market value, with the exception of roaster sales by Cinsa, for which we used third country prices, because there were insignificant sales of this merchandise in the home market.

Because we examined only sales of first quality merchandise to the United States, we used the home market prices of first quality merchandise in our comparisons. Also, we limited our comparisons to home market sales made at quantities comparable to U.S. sales.

Finally, we excluded sales made by the companies under investigation to the Mexican government and government agencies because they are outside the ordinary course of trade, due to special pricing policies, payment terms, and shipping arrangements.

To determine Cinsa's foreign market value, we made deductions for inland freight, insurance, quantity and prompt payment discounts, volume rebates, and advertisting. We made difference in merchandise adjustments for similar items, in accordance with § 353.16 of our regulations. We also made a circumstances of sale adjustment for differences in credit expenses, according to § 353.15 of our regulations. We made no adjustments for commissions paid to related agents. Since commissions to unrelated agents were paid only on sales to government agencies, and we are not including sales to the government in our fair value comparisons, we did not make an adjustment for these commission expenses.

Because Cinsa had insignificant home market sales of first quality roasters, we based foreign market value for this item on sales to Canada, as the merchandise sold to Canada was the most similar to that sold in the United States. To determine foreign market value, we deducted inland freight, insurance, and brokerage, and added duty drawback. We also made a circumstances of sale adjustment for differences in credit expenses, according to § 353.15 of our regulations.

To determine TRES' foreign market value, we made deductions for discounts, freight and insurance, and rebates. We made difference in merchandise adjustments for similar items, in accordance with § 353.15 of our regulations. We also made a circumstances of sale adjustment for differences in credit expenses, according § 353.15 of our regulations. We disallowed an adjustment for fixed credit expense (which included such things as the salary and administrative expenses of the credit department), because we consider it to be an indirect expense and not directly related to the sales under consideration, as required by § 353.15(a) of the Commerce regulations. We disallowed an adjustment for commissions paid to related agents, and we did not make an adjustment for commissions paid to unrelated agents, all of whom sell solely to government agencies.

Currency Conversion

In calculating foreign market value, we made currency conversions from Mexican pesos to United States dollars in accordance with § 353.56(a)(1) of our regulations, using the daily official Mexican exchange rates certified by the Federal Reserve.

Verification

We verified all information used in making our final determination in accordance with section 776(a) of the Act. We used standard verification procedures, which included examination of relevant sales and financial records of each company.

Critical Circumstances

Petitioners allege that imports of the subject merchandise from Mexico present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist if we determine that:

(A) (i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of porcelain-on-steel cooking ware from Mexico in the United States or elsewhere, we reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries and found no past antidumping determinations on porcelain-on-steel cooking ware from Mexico.

We then considered whether the person by whom, or for whose account, this product was imported knew or should have known that the exporter was selling this product at less than its fair value. It is the Department's position that this test is met where margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were significantly below home market sales prices. In this case, the margins calculated on the basis of the response to the Department's questionnaire are sufficiently large for TRES and All Others that the importer knew or should have known that the merchandise was being sold in the United States at less than fair value. Therefore, we determine that this test is met.

We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels, (2) Whether imports have surged recently, (3) Whether the recent imports are significantly above the average calculated over the last three years; and (4) Whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we have analyzed recent trade statistics on imports from Mexico. We find that imports have been massive over a short period of time, and, therefore, for the reasons described above, we determine that critical circumstances exist with respect to porcelain-on-steel cooking ware from Mexico.

We have notified the ITC of this determination.

Petitioners' Comments

Comment 1: Petitioners argue that respondents' claimed adjustment for level of trade differences should be ignored because there is no consistent correlation between the prices charged or quantities sold by the respondents and the type of customer, because the companies have failed to show that they incur consistently different costs in selling to different types of customers in the home market, and because wholesaler customers of both companies frequently paid higher net unit prices than did other customers.

DOC Position: In making fair value comparisons, we compared sales in the United States to sales made by Cinsa and TRES to wholesalers and wholesalers of sets in the home market. This decision was based on an analysis of the average quantity per invoice of each home market customer category, wherein we found that sales to wholesalers in the home market are made at quantities comparable to U.S. sales, pursuant to § 353.14 of Commerce regulations.

Moreover, we verified that, in the ordinary course of trade, Cinsa and TRES granted sale-by-sale discounts on each home market sale. Therefore, to reach the price actually charged in the home market, we have included these discounts in our foreign market value.

Due to special pricing policies, payment terms, and shipping arrangements, we found sales by Cinsa to Mexican government agencies to be outside the ordinary course of trade.

Comment 2: Petitioners contend that commissions paid to respondents' employees for sales are in the nature of salaries and that the Department should not grant adjustments for such general expenses of doing business.

DOC Position: We agree. In general, the Department has not permitted adjustments for commission payments to related parties (*e.g.*, employees). The principle behind denying adjustments for payments to related parties is that such payments are merely intracompany transfers of funds. As such, these payments are considered to be part of the general expenses of the company, and not costs directly related to particular sales, as required by 19 CFR 353.15.

However, in *Egg Filler Flats from Canada* (50 FR 24009, June 7, 1985), *Iron Construction Castings from India* (51 FR 2412, January 16, 1986), and *Drycleaning Machinery from West Germany* (50 FR 32154, August 8, 1985), we determined that the salesmen in question operated the same as unrelated agents would. In particular, we determined that the salesmen in question were paid no salaries and that they paid for all their sales-related expenses.

In this case, we have not made an adjustment for commissions paid by the companies under investigation to related agents, because we were unable to verify that the salesmen in question paid for all their sales-related expenses. Furthermore, we verified that TRES' related agents did receive salaries in addition to commissions. Thus, these commissions are not directly related to the sales under investigation.

Comment 3: Petitioners argue that respondents' claimed adjustment to foreign market value for commissions should be denied because commissions are based on sales of products in addition to those subject to investigation, such as enameled tableware.

DOC Position: As previously stated, we have denied an adjustment for commissions paid to related agents. We verified that commissions to unrelated agents are paid only on sales to government agencies. Since we have excluded these sales from our fair value comparisons, this point is moot.

Comment 4: Petitioners argue that the Department should deny any adjustments to United States price and foreign market value claimed for proceeds from respondents' post-sale investments in the United States. Mexico's foreign currency control laws allow exporting companies to hold dollars earned on export sales in the United States for up to 90 days before returning the dollars to Mexico and converting them to pesos. Respondents have argued that this conversion delay yielded a profit because the continued, predictable devaluation of the peso allowed respondents to offer a lower sales price for the goods. Petitioners argue that the Act and the Department's regulations preclude such an adjustment, and that, even if such an adjustment is not precluded by law, it is inappropriate to make such an adjustment in this case.

DOC Position: While respondents may have received more pesos for their dollar earnings by waiting 90 days to repatriate those dollars, the purchasing power of those pesos would have been diminished by inflation that occurred in Mexico during that 90 day period. Therefore, if we were to allow these foreign exchange gains, without any adjustment for the diminishing purchasing power of the pesos, we would be overstating the return to the Mexican producers. Because changes in inflation and devaluation rates would, in general, be parallel, we would not anticipate the effect of the 90 day delay to be significant. Moveover, we verified that the change in the exchange rate was not predictable.

Comment 5: Petitioners argue that the Department cannot use the "free" rate of exchange for currency conversions because Mexican law precludes the use of the free rate for foreign trade and most business transactions, and because the Department verified that both companies under investigation conducted all their import and export business at the official rate of exchange.

DOC Position: We made currency conversions from Mexican pesos to United States dollars in accordance with § 353.56(a)(1) of our regulations, using the daily official Mexican exchange rates certified by the Federal Reserve.

Comment 6: Petitioners argue that, despite respondents' claims, adjustment to home market price for expenses associated with maintaining in-stock inventory (*i.e.*, warehousing) of the subject merchandise for home market sales should be denied, because their "home market contracts [do] not explicitly require [them] to store merchandise before or after the date of sale."

DOC Position: We agree. We determined that these expenses are not directly related to the sales under consideration and, therefore, are not an allowable adjustment.

Comment 7: Petitioners argue that respondents have failed to provide sufficient information explaining cost of production estimates and comparisons of similar merchandise, and urge the Department to use best information available.

DOC Position: We disagree. During verification, we carefully examined both companies' lists of similar product groupings and found them to be appropriate for price comparisons.

Comment 8: Petitioners argue that should adjustments to some products be appropriate for differences in dimensions or decoration, those adjustments should be limited to the specific differences, *e.g.*, the cost of applying decals if comparing decorated and undecorated products of the same type.

DOC Position: We disagree. It is our policy, in cases of comparison between similar merchandise, to take into account the actual cost of producing the products being compared, not simply the costs of applying decals, etc.

Comment 9: Citing *Certain Stainless Steel Cooking Ware from Taiwan* (Preliminary Determination), (51 FR 24566, July 7, 1986), petitioners contend that with respect to those items where constructed value may be appropriate, the cost of consumer packaging must be included in the cost of materials and fabrication pursuant to section 773(e)(1)(A) of the Act.

DOC Position: Since we are not using constructed value for comparison purposes, this point is moot.

Comment 10: Petitioners argue that, despite respondents' claims to the contrary, Cinsa and TRES had sufficient home market sales of roasters to permit the Department to use home market prices as foreign market value, instead of constructed value or third country sales.

DOC Position: We partially agree. While we found TRES to have sufficient home market sales of first quality roasters, we did not find this to be the case for Cinsa. Therefore, we are using Cinsa's third country sales of first quality roasters to Canadian purchasers as foreign market value for purposes of our comparisons.

Comment 11: Petitioners argue that the Department should deny respondents' claimed exclusion of second quality roasters for purposes of determining home market viability. Petitioners contend that the Department should compare second quality roaster sales in both the home and U.S. markets because both respondents have substantial sales or second quality roasters in both markets.

DOC Position: We were able to examine at least 80 percent of the dollar value of exports to the United States of the merchandise subject to this investigation. Transactions of second quality merchandise, though, would be subject to any antidumping order which might be issued and, in the course of a review under section 751 of the Act, information may be developed which would permit a proper comparison of this merchandise.

Comment 12: Petitioners question respondents' claims that they incurred greater credit expenses in the home market than in the United States. Specifically, petitioners argue that respondents would be unable to borrow in the United States at the prime rate and allege that respondents failed to adjust their home market expense for finance charges and late payment penalty charges received on home market sales.

DOC Position: Because Cinsa did not have a company specific short-term borrowing rate during the review period, we used the short-term benchmark established in the corresponding countervailing duty investigation of porcelain-on-steel cooking ware from Mexico, which equals the average cost of funds to Mexican banks plus a spread. Credit expenses in both markets were calculated using this benchmark and the verified monthly average number of days payment was outstanding. We have also taken into account the verified penalty charges Cinsa collected during the review period. To determine TRES' credit expense, we utilized the company's verified monthly short-term borrowing rate for the review period. Credit calculations were based on the terms listed on the invoices.

Comment 13: Petitioners question respondents' claimed adjustments for quantity discounts. Citing *Certain Valves, Couplings, Nozzles, and Connections of Brass from Italy* (49 FR 47008, November 30, 1984), petitioners contend that such discounts, if granted, may not be provided consistently "on all sales of comparable quantities" as required.

DOC Position: We made no adjustment for price discounts based on quantitative differences but did adjust for the verified discounts granted on each home market sale.

Comment 14: Petitioners contend that data not available at the time of the Department's negative preliminary critical circumstances determination show that critical circumstances exist with respect to imports of Mexican porcelain-on-steel cooking ware.

DOC Position: We determine that critical circumstances exist with respect to imports of the subject merchandise by TRES and All Others.

Comment 15: Petitioners argue that only those sales to the respondents' parent corporations should be considered excluded as sales to related parties (19 CFR 353.33(b). Respondents' sales to "sister" corporations (those with a common parent) should not be disregarded because the "sister" corporations have no ownership interest in the respondents and because the sales prices were comparable with those to unrelated parties.

DOC Position: We are disregarding sales made to "sister" corporations, because we found that such sales were not made in quantities comparable to U.S. sales.

Comment 16: Petitioners argue that the Department should calculate a single dumping margin for all porcelain-on-steel cooking ware subject to investigation. Petitioners contend that respondents' request for separate margins for various product subgroups is contrary to Department practice and impractical for the Customs Service to implement.

DOC Position: We agree that we should calculate a single weighted-average margin for all products. We have based our determination on the fact that cooking ware and roasters are imported under the same TSUS numbers, have the same usage, and are produced from the same materials using the same procedures. We made fair value comparisons on sales of the class or kind or merchandise and have calculated a single dumping margin for all porcelain-on-steel cooking ware subject to investigation from Mexico.

Petitioners' Comments Pertaining to Cinsa

Comment 17: Petitioners oppose Cinsa's claimed adjustment for differences in steel input costs. Cinsa claims that Mexico steel used in producing porcelain-on-steel cooking ware sold in the home market is more expensive than inported steel used to manufacture porcelain-on-steel cooking ware for export to the United States. Petitioners contend that the Department should not make adjustments for different production costs where there is no discernible difference between the cooking ware sold in the home market and that exported to the United States.

DOC Position: We agree. In this case, however, we have made adjustment for Mexican customs duty exemptions granted on imported steel used for export production, pursuant to section 772(d)(1)(B) of the Act.

Comment 18: Citing *Rectangular Welded Carbon Steel Pipes and Tubes from Korea* (49 FR 9936, March 16, 1984), petitioners argue that the Department should average Cinsa's steel costs (domestic and imported) when calculating the cost of using different amounts of steel in finished products in order to "prevent" Cinsa from obtaining a "difference in merchandise" adjustment for steel, to which Cinsa is not entitled.

DOC Position: For purposes of comparisons of similar merchandise in this case, steel costs were based on the domestic price of steel for both export and domestic products, which, in effect, precludes a "difference in merchandise" adjustment.

Comment 19: Petitioners argue that the Department cannot grant a drawback adjustment to Cinsa's United States price to account for import duty exemptions on imported steel used to produce export products because the Department has not verified sufficient information.

DOC Position: We verified that Cinsa did not pay customs duties on imported steel used in the manufacture of exported merchandise. We further verified that Mexico granted this exemption only on goods that were used to produce exports. Finally, we verified that the imported steel was exported as cooking ware. Therefore, we have verified sufficient information to calculate a drawback adjustment.

Comment 20: Petitioners argue that the Department should use Cinsa's actual short-term borrowing rates as reported in its questionnaire response to compute any credit adjustment and not the higher CPP rate (Costo Porcentual Promedio, or the average cost of funds to Mexican banks) as Cinsa requests.

DOC Position: Because we were unable to verify the interest rates provided in Cinsa's June 11, 1986, supplemental questionnaire response, we utilized the short-term benchmark established in the corresponding countervailing duty investigation of porcelain-on-steel cooking ware from Mexico as best information available.

Comment 21: Petitioners argue that Cinsa's revenues from late payment penalties assessed against home market customers should be subtracted from its home market credit expense before such expense is allocated over home market sales.

DOC Position: We agree and have calculated Cinsa's home market credit expense accordingly.

Comment 22: Petitioners urge the Department to reject Cinsa's constructed value estimates because (a) Cinsa purchases some inputs from related parties, and (b) Cinsa did not average its imported and domestic steel costs.

DOC Position: Since we have not used constructed value for any comparisons, this point is moot.

Petitioners' Comments Pertaining to TRES

Comment 23: Petitioners argue that TRES' commissions to its related company in Mexico City are not

commissions, but intra-company transfers of funds which do not qualify for a circumstances of sale adjustment.

DOC Position: We agree and have not made an adjustment for such commissions.

Comment 24: Petitioners argue that if TRES is entitled to any commission adjustment for home market sales, such commissions must be offset by indirect selling expenses in the United States, because TRES incurred no commission expense on U.S. sales.

DOC Position: Since we did not make any adjustment for commissions, this point is moot.

Comment 25: Petitioners argue that the Department should deny TRES' claimed adjustment for volume rebates extended to home market customers because such rebates are based largely on sales outside the review period or on sales of merchandise not under investigation.

DOC Position: We disagree. We verified that TRES granted volume rebates on sales of enamelware, the majority of which were sales of cooking ware. We also verified that these volume rebates were given based on monthly and/or yearly sales, and that the terms of the yearly volume rebates were set in the beginning of 1985. Therefore, we have allowed an adjustment for volume rebates and have adjusted TRES' home market prices accordingly.

Comment 26: Petitioners argue that TRES' claimed adjustment for "fixed" credit expenses should be denied because they are general operating expenses and are not directly related to sales under consideration.

DOC Position: We agree and have not granted a "fixed" credit expense adjustment.

Comment 27: Petitioners argue that the Department must reduce United States price by all costs incurred by TRES in delivering the merchandise under investigation to the United States.

DOC Position: We agree and have made adjustments to purchase price for insurance, U.S. and Mexican freight, and U.S. and Mexican brokerage charges.

Respondents' Comments

Comment 1: Respondents argue that to comply with the statute, ITA regulations, and ITA precedent, the Department must base price comparisons only on sales in the home market to wholesalers, because these home market sales are at the level of trade and at quantities comparable to United States sales.

DOC Position: We agree that sales to wholesalers in the home market are at quantities comparable to U.S. sales and have calculated foreign market value on the basis of those sales only. Please see the Department's response to petitioners' Comment 1 *supra.*

Comment 2: Respondents argue that if the Department fails to limit comparisons of home market sales to sales made at the same level of trade as United States sales, the Department must exclude all home market sales made to related parties and employees because: (1) Such sales were made at prices consistently higher than the prices paid by unrelated purchasers; and (2) Sales to employees are not made in the ordinary course of trade or in normal commercial quantities.

DOC Position: Since we have compared sales in comparable quantities only, this point is effectively moot.

Comment 3: Respondents argue that if the Department considers sales made at different levels of trade, the Department must adjust those prices by the quantified amount of additional discount the purchaser would be entitled to if it were a wholesaler.

DOC Position: Since we have limited fair value comparisons to sales made to home market wholesalers, this point is moot.

Comment 4: Citing the Department's decision in *Egg Filler Flats from Canada* (50 FR 24009, June 7, 1985), respondents argue that the Department must make adjustments to home market sales to reflect differences in circumstances of sale with respect to commissions paid to related and unrelated agents, and related company agents.

DOC Position: Our analysis of this comment is similar to that in petitioners' Comment 2 *supra.* Although Cinsa and TRES paid commissions to related agents for home market sales, we were unable to verify that the salesmen in question paid for all their sales related expenses. Furthermore, we verified that TRES' related agents received salaries in addition to commissions.

Both companies paid commissions to unrelated agents only on sales to government agencies. Since we are limiting our fair value comparisons to wholesalers, this point is moot.

Comment 5: Respondents argue that because commission expenses were not incurred in the U.S. market, the adjustment for indirect selling expenses for U.S. sales must be limited, by regulation and administrative practice, to the commission expense incurred in the home market.

DOC Position: Since we did not make any adjustments for commissions in the home market, this point is moot.

Comment 6: Respondents argue that the Department should use the "free" exchange rate, which was certified by the Federal Reserve Board during the review period, for currency conversions, to avoid margins based solely on exchange fluctuations.

DOC Position: Firms must convert their foreign exchange to Mexican pesos at the official exchange rate. Therefore, we converted at the certified official rate in effect on the date of sale.

Comment 7: In the event that the Department refuses to use the certified "free" rate of exchange, respondents argue that ITA regulations allow for adjustments in its fair value calculations to avoid dumping margins attributable solely to currency fluctuations. The Department must make an adjustment to fair value to reflect the actual rate of exchange realized by respondents either by increasing the U.S. price by the amount of the foreign exchange earnings made on each sale, or by deducting from foreign market value an amount equal to the amount each item would have earned, had it been sold in the United States and benefitted from foreign exchange earnings.

DOC Position: We disagree. Please see the Department's response to petitioners' Comment 4 *supra.*

Comment 8: Respondents argue that in making fair value comparisons, the Department must compare items sold in the United States to items sold in the home market of the same size configuration, number of enamel coatings, and type of decoration. In cases where there are no home market sales of identical products, the Department must compare products sold in the United States with the most similar home market items, with appropriate adjustments to account for the differences in the cost of producing the different articles, not simply the differences in the cost of applying decals, etc.

DOC Position: We agree and have done so.

Comment 9: Respondents argue that because the companies under investigation did not have any short-term dollar denominated loans during the review period, the proper rate to use in calculating U.S. credit expenses is the average monthly prime interest rate for short term loans as determined by the Federal Reserve Bank. Since the sales are determined in U.S. dollars, the financing of those sales are incurred in U.S. dollars.

DOC Position: We are using the home market borrowing rates. Since we are concerned with credit extended to U.S. importers by Cinsa and TRES, and we have no evidence that Cinsa and TRES would borrow in the U.S. market,

Mexican borrowing rates are the appropriate rates for credit adjustments.

Comment 10: Respondents argue that discounts provided to home market customers at the time of sale, automatic "level of trade" discounts, prompt payment discounts, and rebates, whose terms are governed by contractual commitments undertaken at the time of the sale, were granted on a sale-by-sale basis and should be considered adjustments to price.

DOC Position: We agree and have made adjustments accordingly.

Comment 11: Respondents argue that a final negative determination of critical circumstances is warranted because: (1) There is neither a history of dumping nor imputed or actual knowledge of dumping on the part of the importers; (2) Imports of the subject merchandise have not been massive over a relatively short period of time; (3) Petitioners have failed to provide further information in support of their critical circumstances allegation since the Department's July 11, 1986, preliminary negative critical circumstances determination; and (4) the final critical circumstances determination requires a higher evidentiary threshold than the preliminary finding.

DOC Position: We disagree and determine that critical circumstances exist with respect to imports of the subject merchandise by TRES and All Others.

Comment 12: Respondents argue that the Department should disregard sales of second quality merchandise in both the United States and the home market because these comparisons would distort fair value comparison.

DOC Position: We have not included sales of second quality merchandise in either market. Please see the Department's response to petitioners' Comment 11 *supra.*

Comment 13: Respondents argue that the Department must make adjustments to United States price for inland freight, insurance, and brokerage using the revised information provided during verification.

DOC Position: We agree and have done so.

Comment 14: Respondents argue that home market sales must be adjusted to account for inland freight charges incurred on all government sales as well as on sales to the private sector from both companies' warehouses in Guadalajara and Mexico City.

DOC Position: We verified that both companies incurred inland freight charges in sales to the private sector from warehouses in Guadalajara and Mexico City, and we have taken these expenses into account. Since we have excluded government sales from fair value comparisons, the point concerning freight charges on such sales is moot.

Comment 15: Respondents argue that for purposes of the final determination, the Department must create two separate margins—one for utility cooking ware and one for specialty products such as roasters—due to the differences in the products themselves and the great disparity in the estimated dumping margins for each type of product. Respondent argues that the Department is required to tailor the estimated LTFV margins to actual margins and has the authority to bifurcate its margins when necessary, in order to avoid subjecting products with negative margins to dumping duty deposit rates, which is contrary to the remedial nature of the statute and our international obligations under GATT.

DOC Position: We disagree. We believe roasters and other cooking ware products constitute one product group and one class or kind of merchandise. Hence, consistent with our past Department practice, we are not publishing separate dumping margins for the merchandise under investigation.

Comment 16: Respondent argues that, pursuant to statutory directive, the Department must adjust the United States price by adding the amount of any countervailing duty that may be imposed on the subject merchandise in the parallel countervailing duty investigation.

DOC Position: We disagree. We will instruct Customs to subtract the amount of any countervailing duty due to export subsidies from the antidumping duty when and if final orders are published.

Respondents' Comments Pertaining to Cinsa

Comment 17: Cinsa argues that fair value must be adjusted to reflect the different physical characteristics of the imported steel used for export production and domestic steel used for home market production, because both the physical differences and the quantification of the differences in manufacturing costs have been verified.

DOC Position: We disagree. We were unable to verify that differences in the physical characteristics of the merchandise as end products existed within the meaining of 19 CFR 353.16.

Comment 18: Cinsa argues that if the Department does not grant Cinsa an adjustment to fair value for differences in the physical characteristics of steel, Cinsa is then entitled to an adjustment to United States price for import duties rebated or not collected by reason of exportation.

DOC Position: We agree and have granted Cinsa an adjustment for these duties, pursuant to section 772(d)(1)(B) of the Act.

Comment 19: Cinsa contends that since there were no sales of first quality roasters to wholesale customers in home market during the review period, and since roasters are not "like" other products which were sold to wholesale customers, the Department should calculate fair value for roasters on the basis of roaster sales to third countries (Canada) or constructed value.

DOC Position: We agree and have calculated fair value based on sales of first quality roasters to Canada.

Comment 20: Respondents argue that the Department should make an adjustment to Cinsa's home market sales prices to reflect differences in circumstances of sale with respect to home market credit expenses, beause Cinsa computed its credit cost based on the imputed average methodology approved by the Department. Further, because Cinsa did not have any commercial short-term loans during the review period, this adjustment must utilize the revised factor calculated by Cinsa incorporating verified data and CPP interest rates.

DOC Position: We have made a circumstances of sale adjustment for differences in credit expenses using the benchmark established in the corresponding countervailing duty investigation of porcelain-on-steel cooking ware form Mexico. Please see the Department's response to petitioners' Comment 12 *supra.*

Comment 21: Cinsa argues that the application of late penalty payments is rare and inconsistent, that the resulting factor is insignificant, and that this factor should be disregarded by the Department in computing Cinsa's credit expense.

DOC Position: We disagree. Late penalty payments are a factor in the firm's credit expenses; therefore, we have included these verified payments in Cinsa's credit adjustment.

Comment 22: Cinsa argues that the Department should make an adjustment to Cinsa's home market sales prices to reflect differences in circumstances of sale with respect to advertising conducted solely in the home market and directed at the consumer market.

DOC Position: We agree. We verified that advertising conducted by Cinsa in the home market was directed at the consumer market and, therefore, is an allowable adjustment.

Comment 23: Respondents argue that the Department erred in its preliminary determination by applying a letter of

credit discount to all of Cinsa's U.S. sales and an additional discount to all sales of Convex line products. Because neither of these discounts are granted across the board, the Department must adjust only those U.S. sales actually receiving discounts.

DOC Position: We agree. We verified that only certain sales received discounts, and we have adjusted those specific sales accordingly.

Comment 24: Cinsa contends that the verified constructed value information provided to the Department must be used to make fair value comparisons for lasagna pans, which are sold only in the United States, because no such or similar cooking ware item is sold in the home market or any third country.

DOC Position: We did not include Cinsa's U.S. sales of lasagna pans in our fair value comparisons, because they account for an extrememly small percentage of total U.S. sales value.

Respondents' Comments Pertaining to TRES

Comment 25: TES argues that in calculating home market credit expense, the Department must use the company-specific, verified, daily interest rates and the payment terms listed on each home market sales invoice.

DOC Position: We agree. We verified TRES' company-specific monthly short-term interest rates and have calculated TRES' home market credit expense accordingly.

Comment 26: TRES argues that it is entitled to an adjustment to reflect differences in the cost of production for articles of the same size and configuration, but with a different number of enamel coatings.

DOC Position: We agree and have granted a difference in merchandise adjustment, when applicable, to account for differences in the number of enamel coatings between articles sold in the home market and those sold in the United States, pursuant to section 773(a)(4)(C) of the Act.

Comment 27: TRES contends that because there are insufficient sales in the home market of roasters and canners, and there is no item sold in the home market that can be considered a similar product, the ITA must base its fair value comparisons for canners and roasters on constructed value information.

DOC Position: We disagree. We did not find TRES' home market roaster sales to be insignificant and have used such sales for fair value comparisons. With respect to canners, we have used the verified information provided to the Department by TRES in its June 16, 1986, questionnaire response for price comparisons.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on May 20, 1986, we directed the U.S. Customs Service to suspend liquidation of all entries of porcelain-on-steel cooking ware from Mexico. As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse, for consumption will continue to be suspended, and is ordered retroactively to February 19, 1986, for TRES and All Others. The U.S. Customs Service will continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average margin. The security amount established in our preliminary determination of May 20, 1986 is no longer in effect. The suspension of liquidation will remain in effect until further notice.

With respect to Cinsa, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of porcelain-on-steel cooking ware from Mexico that are entered, or withdrawn from warehouse, for consumption, on or after may 20, 1986, the date of publication of our notice of preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The cash deposit rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturers/producer/exporter	Margin percentage
Cinsa, S.A.	17.47
Troqueles y Esmaltes, S.A.	58.73
All others	29.52

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry, within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on porcelain-on-steel cooking ware from Mexico, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

October 2, 1986.

[FR Doc. 86-23035 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-508-601; A-508-602]

Postponement of Final Countervailing and Antidumping Duty Determinations; Oil Country Tubular Goods from Israel

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in these investigations that the final antidumpting duty determination be postponed for 135 days from publication of our antidumpting duty preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) [19 U.S.C. 1673d(a)(2)(A)]; and that we have postponed our final determinations as to whether sales of oil country tubular goods (OCTG) from Israel are subject to countervailing duties and have occurred at less than fair value until not later than January 7, 1987. In addition, we are rescheduling the public hearing in the antidumping duty investigation.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION: Charles E. Wilson (Antidumping) or Gary Taverman (Countervailing Duty), Office of Investigations, Import Administration, International Trade Administration,

United States Department of Commerce, 14th Street and Constitution Avenue NW., Washigton, DC 20230; telephone: (202) 377–5228 (Wilson) or 377–0161(Taverman).

Case History

On March 12, 1986, we received antidumping and countervailing duty petitions filed by Lone Star Steel Company and CF&I Steel Corporation on OCTG from Israel. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petition alleged that imports of OCTG from Israel are being, or are likely to be, sold in the United States at less than fair value within the meaning of seciton 731 of the Tariff Act of 1930, as amended (the Act) and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation; and on April 1, 1986, we initiated such an investigation (51 FR 11963, 4–8–86). The preliminary affirmative determination in this antidumping investigation was made on August 19, 1986.

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Israel of OCTG directly or indirectly receive benefits which constitute subsidies within the meaning of section of 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on April 1, 1986, we initiated such an investigation (51 FR 11965, 4–8–86). On April 29, 1986, the ITC preliminarily determined that there is a reasonable indication that imports of OCTG cause material injury to a U.S. industry (51 FR 16907, 5–7–86). On June 5, 1986, we issued a preliminary affirmative determination in the countervailing duty investigation (51 FR 21201, 6–11–86).

On June 12, 1986, petitioners filed a request for extension of the deadline date for the final determination in the countervaling duty investigation to correspond with the date of the final determination in the antidumping duty investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by seciton 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination" in the antidumping investigation (19 U.S.C.1671d(a)(1)). Pursuant to this provision, we granted an extension of the deadline date for the final determination in the countervailing duty investigation of OCTG from Israel to November 3, 1986, the deadline for the final determination in the antidumping duty investigation. To comply with the requirements of Article 5, paragraph 3 of the Subsidies Code, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigation on October 9, 1986, which is 120 days from the date of publication of the preliminary determination in this case. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters after October 9, 1986. The suspension of liquidation will not be resumed unless and until the Department publsihes a countervaling duty order in this case. We will also direct the U.S. Customs Service to hold any entries suspended prior to October 9, 1986, until the conclusion of this investigation.

On September 11, 1986 counsel for respondent requested that the Department extend the period for the final determination in the countervailing and antidumping duty investigations to 135 days from the publication date of our preliminary antidumpting duty determination in accordance with section 735(a)(2)(A) of the Act.

Section 735(a)(2)(A) of the Act provides that the Department may postpone its final determination concerning sales at less than fair value until not later than 135 days after the date on which it published a notice of its preliminary determination, if exporters who account for a significant portion of the merchandise which is the subject of the investigation request a postponement after an affirmative preliminary determination.

The respondent is qualified to make such a request since it accounts for all exports of the merchandise under investigation. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the Department will issue final determinations in these cases not later than January 7, 1987.

The public hearing in the antidumping duty investigation is also being postponed until 10:00 a.m. on October 16, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by October 6, 1986. Oral presentations will be limited to issues raised in the briefs. Posthearing briefs are due no later than 10 days after transcripts of the hearing are made available. All written views should be filed in accordance with 19 CFR Part 46, no later than 30 days before the final determination is due, at the above address in at least 10 copies.

This notice is published pursuant to section 745(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–23038 Filed 10–9–86; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-001]

Leather Wearing Apparel From Colombia; Preliminary Results of Countervailing Duty Administrative Review and Proposed Revised Suspension Agreement

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of administrative review and proposed revised suspension agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Colombia. The review covers the period July 1, 1983 through June 30, 1984 and three programs.

As a result of the review, the Department has preliminarily determined that Confecciones Amazonas Orinoco, the signatory to the suspension agreement, did not account for over 85 percent of leather wearing apparel imports to the United States from Colombia during the period of review. Confecciones Amazonas Orinoco is out of business and no longer exports to the United States. Accordingly, we are proposing a revised suspension agreement that substitutes Astrakhan, Ltda. for Confecciones Amazonas Orinoco, because Astrakhan, Ltda. now accounts for over 85 percent of all imports of leather wearing apparel to the United States from Colombia. Interested parties are invited to

comment on these preliminary results and proposed revised suspension agreement.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 18588) the final results of its last administrative review of the suspension agreement on leather wearing apparel from Colombia (46 FR 19963, April 2, 1981). On September 27, 1985, a domestic interested party, the Amalgamated Clothing and Textile Workers Union, requested in accordance with § 355.10 of the Commerce Regulations an administrative review of the suspension agreement. We published the initiation of the review on November 27, 1985 (50 FR 48825). The Department has now conducted that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Colombian men's, boys', women's, girls' and infants' leather coats and jackets, and other leather wearing apparel (such as vests, pants and shorts), as well as parts and pieces thereof. Such merchandise is currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1983 through June 30, 1984 and three programs: (1) CAT/CERT; (2) Resolution 59; and (3) Decree 2366.

Analysis of Programs

(1) CAT/CERT

The Government of Colombia provided payments to exporters of leather wearing apparel in the form of negotiable Tax Credit Certificates ("CATs") that could be used for the payment of various taxes or sold on the stock exchange at a discount. Rebates were calculated as a percentage of (1) the value of the exported product attributable to the domestic value-added content, and (2) imported inputs on which duties have been paid. We preliminarily determine that Colombian leather wearing apparel exporters did not receive CAT payments on exports of leather wearing apparel to the United States during the period of review.

On April 1, 1984, the Colombian government established in Law 48/83 the Tax Rebate Certificate ("CERT"), which replaces the CAT. The CERT is intended to rebate all or part of the indirect taxes paid by exporters. Like the CAT, the CERT is freely negotiable on the stock market and can be used for paying a variety of taxes.

Decree No. 637, which also became effective on April 1, 1984, established a CERT rate of 15 percent on leather wearing apparel exports to the United States and Puerto Rico. The Banco de la Republica, Colombia's central bank, certified to the Department on September 27, 1984 that it withheld CERT payments to leather wearing apparel exporters on shipments to the United States and Puerto Rico. Therefore, we preliminarily determine that exporters did not receive CERT payments on shipments of leather wearing apparel to the United States during the period of review.

(2) Resolution 59

Resolution 59, which was passed by the Monetary Board of Colombia on August 30, 1972, provides working capital financing at preferential rates to firms that manufacture, store, or sell products destined for export. All industries are eligible, except producers of coffee, petroleum, and petroleum by-products. Resolution 59 loans are administered by the Export Promotion Fund ("PROEXPO"), an agency of the Colombian government. The loans are for 180 days and the interest is paid quarterly, in advance. In February 1986, the maximum annual interest rate was 19 percent. Colombian exporters of leather wearing apparel received working capital loans under Resolution 59 during the period of review.

We found in the suspension of contervailing duty investigation on certain textile mill products and apparel from Colombia (50 FR 9863, March 12, 1985) ("the textiles suspension of investigation") that the predominant alternative source of non-preferential financing in Colombia is a negotiated package make up of the privately-raised resources of the commercial banking system and certain government credit lines that are available to broad sectors of the economy. To calculate the short-term benchmark, we used central bank data to estimate the amount of capital lent through non-targeted government credit lines and the amount of privately-raised resources of the commercial banking system lent at unregulated rates. We then weight-averaged the statutory interest rates on the non-targeted government funds and the average interest rate charged on the privately raised resources. We found that the short-term benchmark interest rate was 27.80 percent in February 1986, the most recent information available. On this basis, we preliminarily determine the current interest rate differential to be 8.80 percent.

Since we found this program countervailable in the textiles suspension of investigation, we have included it in the revised suspension agreement.

(3) Decree 2366

Under Decree 2366, PROEXPO provides exporters with long-term financing for capital investment at preferential rates. We preliminarily determine that leather wearing apparel exporters did not use this program during the period of review. Because we found this program countervailable in the textiles suspension of investigation, we have included it in the revised suspension agreement.

Preliminary Results of Review

As a result of our review, we preliminarily determine tht CAO did not account for 85 percent of Colombian leather wearing apparel exports to the United States during the review period. The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of exports of such merchandise to the United States. The Colombian government notified the Department that CAO went out of business and certified that CAO stopped exporting to the United States on October 1, 1984. Astrakhan, Ltda., now accounts for over 85 percent of Colombian leather wearing apparel exports to the United States. On September 15, 1986, Astrakhan agreed to the provisions of the proposed revised suspension agreement. Accordingly, we propose revising the suspension agreement to substitute Astrakhan for CAO.

The proposed revised suspension agreement includes programs investigated in the textiles suspension of investigation. These programs are: (1) Resolution 14, which provides long-term financing at preferential rates for capital investment; (2) duty and tax exemptions for capital equipment under the Plan Vallejo; (3) Export Credit Insurance, which provides guarantees on loans at preferential rates; and (4) countertrade, which permits companies to engage in barter arrangements if such trade creates new markets.

Interested parties may submit written comments on these preliminary results

and proposed revision within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made not later than 5 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of any issues raised in any such written comments or at a hearing.

This administrative review, proposed revised suspension agreement, and notice are in accordance with sections 704 and 751(a)(1) of the Tariff Act (19 U.S.C. 6171c and 1675(a)(1)) and sections 35.10 (50 FR 32556, August 13, 1985), 355.31, and 355.32 (19 CFR 355.31 and 355.32) of the Commerce Regulations.

Dated: October 6, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Revised Suspension Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and Astrakhan Ltda. (hereinafter "Astrakhan"), enter into the following revised Suspension Agreement ("the Agreement"). Astrakhan now accounts for over 85 percent of all imports of leather wearing apparel to the United States. Astrakhan replaces Confecciones Amazonas Orinoco ("CAO") as the signatory since CAO no longer exports to the United States. In consideration of this Agreement, the Central Bank of Colombia, PROEXPO, and any other relevant administering authorities agree voluntarily to take such steps necessary to ensure that the renunciation of benefit by Astrakhan is implemented and monitored, and that the Department is informed of any other companies that are exporting, or begin exporting to the United States, leather wearing apparel as defined by paragraph I below. On the basis of the foregoing, the Department revises the suspension Agreement that became effective on April 2, 1981 (46 FR 19963) with respect to leather wearing apparel from Colombia to replace CAO with Astrakhan as the signatory to the Agreement and to include additional programs in accordance with the terms and conditions set forth below.

I. Scope of the Agreement

The Agreement applies to leather wearing apparel from Colombia ("the subject products"). The subject products cover men's, boys', women's, girls' and infants' leather coats and jackets, and other leather apparel (such as vests, pants and skirts), as well as parts, and pieces thereof as currently provided for in items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated.

II. Basis of the Agreement

Astrakhan, accounting for more than eighty-five (85) percent of the total exports of leather wearing apparel from Colombia to the United States, agrees to the following:

a. Astrakhan will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Tax Reimbursement Certificate program (CAT/CERT) or any other provision of law that constitute, as determined by the Department, an overrebate of indirect taxes on shipments of the subject products exported, directly or indirectly, from Colombia to the United States.

b. Astrakhan will not apply for, or receive, any short-term export financing provided by the Export Promotion Fund, PROEXPO (e.g., Resolution 59 and Resolution 42 loans) and under any special government credit line for leather wearing apparel on or after the effective date of the Agreement, other than those offered at non-preferential terms and at or above the most recent short-term benchmark interest rate determined by the Department in this proceeding. Astrakhan shall repay, or begin negotiating the refinancing of, any such financing outstanding as of the effective date of this Agreement, on non-preferential terms and at the most recent short-term benchmark interest rate determined by the Department in this proceeding by the thirtieth day from the effective date of this Agreement. Repayment or refinancing shall be completed no later than ninety days after the effective date of the Agreement.

c. Astrakhan will not apply for, or receive, any long-term financing provided by the Export Promotion Fund, PROEXPO (e.g., Resolution 2366 loans and Resolution 14 loans), and under any special government credit line for leather wearing apparel, other than those offered on non-preferential terms at or above the most recent long-term benchmark interest rate determined by the Department in this proceeding. Any such financing outstanding as of the effective date of this Agreement shall be repaid, or refinanced on non-preferential terms and at the most recent long-term benchmark interest rate determined by the Department in this proceeding, by the original due date of the loan, or by the sixtieth day from the effective date of this Agreement, whichever comes first. Any such repayment must be consistent with Colombian bankruptcy laws and procedures.

d. Astrakhan will not apply for, or receive, any benefits from duty and tax exemptions for capital equipment under the Plan Vallejo.

e. Astrakhan shall notify the Department in writing prior to applying for approval for any countertrade transaction, and prior to applying for any benefits from the Export Credit Insurance Program with respect to exports of the subject products exported, directly or indirectly, to the United States.

f. Astrakhan agrees that it will not apply for, or receive, any bounties or grants on shipments of the subject products exported, directly or indirectly, from Colombia to the United States which are countervailable under the Act. Bounties or grants on exports of the subject products to the United States include any which have been found or are likely to be found countervailable in any investigation or review under section 751 of the Act, involving any product from Colombia, including bounties or grants which the Department determines may apply to other products or exports to other destinations that cannot be segregated as applying solely to such other products or exports.

g. Astrakhan shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which is, or is likely to be, a countervailable bounty or grant on shipments of the subject products exported from Colombia.

h. If any program under which benefits have been received in the past, and which is included in this Agreement, is found not to constitute a bounty or grant under the Act in the final determination or the final results of an administrative review of this Agreement under section 751 of the Act in this proceeding, then the renunciation of the benefits under that program will no longer be required.

III. Monitoring of the Agreement

1. Astrakhan agrees to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of this Agreement.

2. Astrakhan will notify the Department if it:

a. Transships the subject products through third countries to the United States;

b. Alters its position with respect to any terms of the Agreement; or

c. Applies for, or receives, directly or indirectly, the benefits of the programs described in Section II for the manufacture or export of the subject products exported, directly or indirectly, from Colombia.

3. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III.1 and 2, above.

4. Astrakhan agrees to permit such verification and data collection as deemed necessary by the Department in order to monitor this Agreement.

5. Astrakhan agrees to notify the Department of the volume and value of exports of the subject products to the United States within 45 days from the end of each calendar quarter.

6. Astrakhan agrees to provide to the Department a periodic certification that it continues to be in compliance with the terms of the Agreement. A certification will be provided within 45 days from the end of each calendar quarter.

IV. General Provisions

1. In entering into this Agreement, Astrakhan does not admit that any of the programs investigated constitute countervailable benefits within the meaning of the Act or the GATT Subsidies Code.

2. The provisions of section 704(i) shall apply if:

a. Astrakhan withdraws from this Agreement; or

b. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

3. If the Department learns of any new producers or exporters to the United States of the subject products, it may attempt to negotiate an agreement with the additional producers or exporters.

4. Additionally, should exports to the United States by Astrakhan account for less than 85 percent of the leather wearing apparel imported, directly or indirectly, into the United States from Colombia, the Department may attempt to negotiate an agreement with additional producers or exporters or may terminate this Agreement and reopen the investigation or issue a countervailing duty order as appropriate under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of the subject products as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

V. Effective Date

The effective date of this Agreement will be the date of publication of the final results of the current administrative review in the **Federal Register.** The provisions of paragraphs IIa–h apply with respect to exports of the subject products on or after the effective date. No applications may be made after the effective date of this Agreement for the benefits described in Section II on the subject products exported from Colombia before the effective date.

Signed on this ____ day of _____, 1986.

Alberto Ortiz Gonzalez,

Astrakhan Ltda.

I have determined pursuant to section 704(b) of the Act that the provisions of Section II completely eliminate the benefits that the Government of Colombia is providing with respect to leather wearing apparel, exported, directly or indirectly, from Colombia to the Untied States. Furthermore, I have determined that this revised suspension agreement is in the public interest, that the provisions of Sections III and the attached undertaking of the Government of Colombia ensure that the Agreement can be monitored effectively, and that this Agreement and attached undertaking meet the requirements of section 704(d) of the Act.

United States Department of Commerce.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

Mr. Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration, U.S. Department of Commerce, Room 3099, 14th and Constitution Avenue NW., Washington, DC 20230

Re: Administrative Review of Suspension Agreement on Leather from Wearing Apparel from Colombia

Dear Mr. Kaplan: In consideration of the Suspension Agreement between Astrakhan, Ltda. ("Astrakhan") and the Department of Commerce, the Central Bank of Colombia, PROEXPO and any other administering authority voluntarily agree to take such steps as are necessary to ensure that the renunciation of benefits by Astrakhan in this Agreement is effectively implemented and monitored, including:

1. Notifying the relevant authorities of the Government of Colombia of the terms of this Agreement in order to ensure action by those agencies consistent with the terms of this paragraph;

2. Supplying any information and documentation that the Department deems necessary to demonstrate full compliance by Astrakhan with the terms of this Agreement;

3. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;

4. Notifying the Department if it becomes aware that Astrakhan is transshipping the subject products through third countries to the United States;

5. Notifying the Department if it alters its position with respect to any of the terms of this Agreement;

6. Notifying the Department if it changes the tax rebate rate under the CERT program, indirect tax rates, or import duty rates for the subject products;

7. Notifying the Department if Astrakhan applies for, or receives, directly or indirectly, the benefits of the programs described in paragraphs IIa–f for the manufacture or export of the subject products exported from Colombia;

8. Notifying the Department if Astrakhan becomes eligible for, applies for or receives any new or substitute benefits on the subject products exported from Colombia in contravention of paragraph IIg of the Agreement; and

9. Notifying the Department of any new firms that it learns are exporting the subject products to the United States.

The Central Bank PROEXPO, and any other administering authority also voluntarily agree to provide to the Department within 45 days of the end of each calendar quarter all relevant information deemed by the Department to be necessary to maintain this Agreement. The information shall include, but not be limited to:

1. A certification (provided after consultation with each agency responsible for administering the programs in Section II) that Astrakhan has not applied for or received any benefits described in Section II on shipments of the subject products exported from Colombia;

2. A certification that Astrakhan continues to account for 85 percent of total exports of leather wearing apparel exported, directly or indirectly, from Colombia to the United States; and

3. A certification that Astrakhan continues to be in full compliance with the Agreement.

The Central Bank, PROEXPO and any other administering authority's voluntary undertaking is not an admission that any of the programs investigated or included in the revised Suspension Agreement constitute countervailable benefits under the Act or the Subsidies Code.

The Central Bank, PROEXPO and any other administering authority recognize that this undertaking is essential to the continuation of the Agreement.

Sincerely yours,

Andres Lloreda,

Commercial Attache.

[FR Doc. 86–23039 Filed 10–9–86; 8:45 am]

BILLING CODE 3510–DS–M

[C-201-505]

Final Affirmative Countervailing Duty Determination; Porcelain-on-Steel Cooking Ware From Mexico

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Mexico of porcelain-on-steel cooking ware. The estimated net subsidy is 1.97 percent *ad valorem*. However, we are taking into account a program-wide change which occurred prior to the preliminary determination, and we are adjusting the duty deposit rate accordingly.

We have notified the United States International Trade Commission (ITC) of our determination. If the ITC's final injury determination is affirmative, we will direct the U.S. Customs Service to suspend liquidation of all entries of porcelain-on-steel cooking ware from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the countervailing duty order, and to require a cash deposit or bond on entries of these products in an amount equal to 1.90 percent *ad valorem*.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Karen Busler, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–0167 or (202) 377–4198.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of porcelain-on-steel cooking ware. For purposes of this investigation, the following programs are found to confer subsidies:

- Fund for the Promotion of Exportation of Mexican Manufactured Products (FOMEX)
- Fund for Industrial Development (FONEI)

We determine the estimated net subsidy to be 1.97 percent *ad valorem* for all manufacturers, producers, or exporters of procelain-on-steel cooking ware in Mexico. However, we are adjusting the duty deposit rate to reflect a program-wide change that occurred prior to our preliminary determination. Thus, the cash deposit rate on entries of this product will be 1.90 percent *ad valorem*.

Case History

On December 4, 1985, we received a petition in proper form filed by the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Mexico receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on December 24, 1985, we initiated the investigation (50 FR 53355, December 31, 1985). We stated that we expected to issue a preliminary determination by February 27, 1986.

Since Mexico is a "country under the Agreement," within the meaning of section 701(b)(2) of the Act, the ITC is required to determine whether imports of the subject merchandise from Mexico materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On January 16, 1986, the ITC determined that there is a reasonable indication that imports of porcelain-on-steel cooking ware from Mexico materially injure a U.S. industry (51 FR 3862, January 30, 1986).

On January 3, 1986, we presented questionnaires concerning the petitioners' allegations to the Government of Mexico in Washington, D.C. The Government of Mexico, Cinsa, S.A. (Cinsa) and Troqueles y Esmaltes, S.A. (TRES) provided responses to our questionnaires on February 3, 1986. We found the questionnaire responses to be lacking necessary information, and, on February 7, 1986, we presented deficiency letters to the Government of Mexico and the responding companies. We received supplemental responses from TRES on February 20, 1986, from the Government of Mexico on February 21, 1986, and from Cinsa on February 20, and February 25, 1986. On February 27, 1986, we issued our preliminary determination in this investigation (51 FR 7978, March 7, 1986). We preliminarily determined that benefits constituting subsidies within the meaning of the Act are being provided to manufacturers, producers, or exporters in Mexico of the subject merchandise.

From March 3 through March 13, 1986, we conducted a verification in Mexico. During verification, we discovered that Cinsa orginally provided the Department with an estimate of the total value of exports to the United States of porcelain-on-steel cooking ware. Therefore, on April 21, 1986, we sent a letter to the Government of Mexico and Cinsa requesting that the company provide actual information on the exports to the United States of the subject merchandise. We received a response on May 12, 1986.

On April 30, 1986, we sent a supplemental questionnaire to the Government of Mexico requesting information on an additional FOMEX program discovered at verification. We received responses to this questionnaire on May 19, 1986. On July 19, 1986, we verified the supplemental response and certain other information submitted by Cinsa.

On March 10, 1986, petitioners filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98–573), provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation * * * which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination in the antidumping investigation" (19 U.S.C. 1671d(a)(1)). Pursuant to this provision, the Department granted an extension of the deadline for the final determination in the countervailing duty investigation of porcelain-on-steel cooking ware from Mexico to July 28, 1986, the original deadline for the final determination in the antidumping investigation.

On May 16, 1986, respondents in the antidumping duty investigation of porcelain-on-steel cooking ware from Mexico requested that the Department postpone the final determination until not later than 135 days after the preliminary determination in accordance with section 735(a)(2) of the

Act. We granted this request and postponed our final antidumping duty determination until not later than October 2, 1986. Pursuant to section 705(a)(1) of the Tariff Act of 1930 as amended by section 606 of the Trade and Tariff Act of 1984, the deadline for the final countervailing duty determination on porcelain-on-steel cooking ware from Mexico was also postponed until October 2, 1986, to coincide with the revised date of the final antidumping duty determination (51 FR 10249, March 25, 1986).

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We conducted a hearing on May 13, 1986. We received written views from interested parties and have taken them into consideration in this determination.

Scope of the Investigation

The products covered by this investigation are porcelain-on-steel cooking ware, including teakettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are provided for in items 654.0815, 654.0824 and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchen ware, currently reported under item 654.0828 of the TSUSA, is not subject to this investigation.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of this investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 25, 1984 issue of the **Federal Register** (49 FR 18006, April 25, 1984).

For purposes of this final determination, the period for which we are measuring subsidies (the review period), is calendar year 1985. Based upon our analysis of the petition, the responses to our questionnaires, our verification, hearing, and comments filed by petitioners and respondents, we determine the following:

I. Programs Determined To Be Countervailable

We determine that subsidies are being provided to manufacturers, producers, or exporters in Mexico of porcelain-on-steel cooking ware under the following programs:

A. *FOMEX.* FOMEX is a trust of the Ministry of the Treasury to promote the manufacture and sale of exported products, with the National Bank of Foreign Trade (Bancomext) acting as the trustee. On July 27, 1983, FOMEX was formally incorporated in the National Bank for Foreign Trade, which administers the financing of FOMEX pre-export and export loans through financial institutions that establish contracts for lines of credit with manufacturers and exporters.

During the review period, exporters could obtain FOMEX pre-export loans denominated in pesos with a maximum nominal annual interest rate of 39.6 percent, or export loans denominated in dollars with a maximum annual interest rate of 6.9 percent. During the review period, both companies under investigation received pre-export peso-denominated FOMEX loans to finance exports to the United States. In addition, TRES benefitted from FOMEX export loans, as well as loans to U.S. importers of the subject merchandise.

Because the FOMEX pre-export financing program provides loans for export-related purposes at interest rates lower than those for comparable commercially available loans, we determine that this program confers a subsidy upon the exportation of porcelain-on-steel cooking ware.

In prior Mexican countervailing duty cases, we chose as our benchmark the average of the nominal rates published monthly by the Banco de Mexico in the *Indicadores Economicos* (the "IE" rate), which was the weighted average of the rates charged by commercial banks on peso loans. However, as of January 1985, the Banco de Mexico no longer publishes these rates. Therefore, we consider the most appropriate benchmark to be the Banco de Mexico's Costo Porcentual Promedio ("CPP"), the average cost of funds to Mexican banks, plus a spread equal to the average differential between the CPP and the nominal IE rate from 1981 to 1984, the only period for which we have nominal IE rates. Using this information, we have calculated a comparable peso-denominated average nominal interest rate of 60.86 percent for the review period.

With respect to FOMEX export loans, because exporters may obtain dollar-denominated loans for export-related purposes at interest rates lower than those for comparable commercially available loans, we determine that this program confers a subsidy upon the exportation of the products under investigation. In the past, to calculate the benefit from the short-term dollar-denominated FOMEX export loans, we used as the benchmark the weighted average of the interest rates for commercial and industrial loans of less than one million dollars from table 1.34 of the *Federal Reserve Bulletin.* The Federal Reserve no longer publishes this table, but includes similar information in Table 4.23. The main difference, for our purposes, is that Table 4.23 differentiates between fixed-rate and floating-rate loans. Since FOMEX loans carry fixed rates, we have considered only the fixed-rate section of the commercial and industrial loans reported in Table 4.23. We continue to exclude loans of greater than one million dollars. Using that information, we conclude that comparable dollar-denominated loans were available commercially at an avergae rate of 12.78 percent during the review period.

Because U.S. importers may obtain dollar-denominated FOMEX loans at interest rates lower than those for comparable commercially available loans, we determine that this program confers a subsidy upon the exportation of the subject merchandise. Since these loans are dollar-denominated, we used as the benchmark the weighted average of the interest rates for commercial and industrial loans of less than one million dollars, as described *supra.*

We calculated the amount of the benefit from these pre-export, export, and U.S. importer loans based on the interest rate differentials between the FOMEX financing rates and the applicable benchmarks. Because TRES' loans are export-related and have been tied to exports of the subject merchandise to the United States, we allocated the benefits over total exports of the products under investigation to the United States during the review period. Cinsa questioned the proportion of pre-export loans allocated to exports of cooking ware to the United States by the Government of Mexico. In addition, while at the company, we were unable to verify the precise portion of pre-export loans granted for exports of the subject merchandise to the United States. Therefore, we have allocated Cinsa's total pre-export loan benefit over total exports of all products to all markets during the review period. On this basis, we calculated an estimated net subsidy of 1.69 precent *ad valorem* for the review period.

On January 1, 1986, prior to our preliminary determination, Bancomext raised the interest rates for FOMEX pre-export, and export, and U.S. importer financing to 44.8 percent, 7.4 percent, and 7.4 percent, respectively. To calculate the estimated duty deposit rate, we compared these rates to the

appropriate commercial benchmarks for the same period. Using the same calculation methodology described *supra*, we determine the estimated net subsidy for the pre-export, export, and U.S. importer loan programs to be 1.62 percent *ad valorem* for cash deposit purposes.

B. *Fund for Industrial Development (FONEI).* FONEI is a specialized financial development fund administered by the Banco de Mexico, which grants long-term credit at below-market rates for the creation, expansion, or modernization of enterprises in order to foster industrial decentralization and promote the efficient production of goods capable of competition in the international market. FONEI loans are available under various programs having different eligibility requirements.

During the review period, TRES received FONEI loans for investment in equipment. FONEI loans for investment in equipment are only available to companies located outside of Zone IIIA (Mexico City and environs). Because such loans are limited to companies in particular geographic regions and are made on terms inconsistent with commercial considerations, we determine that FONEI loans for investment in equipment confer a subsidy upon the subject merchandise.

FONEI Loans have variable interest rates. The companies under investigation did not have variable-rate, long-term loans to use for benchmark purposes.Therefore, we treated FONEI loans as a series of short-term loans and compared them to the same benchmark used to evaluate FOMEX pre-export loans.

To calculate the benefit, we computed the total interest that would be paid on the benchmark loan and subtracted from that the total interest that was paid on the FONEI loans. The difference was divided by the total sales of all products of the companies under investigation during the review period. In this manner, we calculated an estimated net subsidy of 0.28 percent *ad valorem*.

II. Programs Determined Not To Be Countervailable

We determine that subsidies are not being provided to manufacturers, producers, or exporters in Mexico of porcelain-on-steel cooking ware under the following programs.

A. *Foreign Currency Financing of Imports (PROFIDE).* PROFIDE is a program which channels World Bank resources to BANCOMEXT, which manages these funds as trustee, in accordance with World Bank guidelines. The purpose of PROFIDE is to aid companies in meeting the reasonable foreign currency costs of imported inputs.

PROFIDE loans must be used to finance the purchase of inputs or spare parts (from World Bank member countries) for the production of products for export, or in the case of spare parts, in equipment used to produce exports. PROFIDE loans may also be used for domestic production; however, the recipient company must be an exporting company. The World Bank must approve each PROFIDE loan before PROFIDE money can be disbursed.

Since we verified that PROFIDE is funded exclusively by the World Bank and because World Bank funds are not countervailable [*see* "Initiation of Countervailing Duty Investigation; Certain Textiles and Textile Products from the Philippines" (49 FR 34381, August 30, 1984) and "Final Affirmative Countervailing Duty Determination; Fuel Ethanol from Brazil" (55 FR 3361, January 27, 1986)], we determine that this program is not countervailable.

B. *FOMEX Frontier Program.* The FOMEX Frontier program is administered by Bancomext and finances the production, inventory, purchase and sale of consumer goods manufactured in border zones as well as consumer products produced elsewhere and sold in border zones. These loans are only granted for sales within the border zones. The amount of FOMEX Frontier financing a company may receive depends on the degree of domestic content, according to the direct cost of production of the item involved. Loans may be extended for up to 100 percent of the cost of production or for up to 70 percent of the f.o.b. factory price, at the applicant's choice. The interest rates on these loans equal CPP plus two percentage points.

The Government of Mexico defines border zones as the region of land 20 kilometers wide parallel to the U.S.-Mexican border line, and the free zones which are: The Baja California peninsula, the northern part of Sonora, the state of Quintana Roo, and the city of Tapachula, Chiapas. The objective of the FOMEX Frontier program is to increase sources of employment nationwide and to substitute Mexican products for imports of capital goods, durable consumer goods and services in the border zones.

Although TRES received FOMEX Frontier loans during the review period, we verified that these loans were tied to specific sales of products within Mexico. Because these loans are specifically tied to domestic sales, and because they do not benefit the production or exportation of the subject merchandise to the United States, we determine that the FOMEX Frontier loans received by TRES are not countervailable.

C. *New Exchange Risks Trust Program (FICORCA II).* Ficorca II, established on February 15, 1984, is a trust fund set up by the Mexican government and the Bank of Mexico operating through the country's credit institutions. This program is similar to Ficorca I (which was terminated on December 20, 1982). All Mexican firms with registered debt in foreign currency and payable abroad to Mexican credit institutions or foreign financial entities may purchase, at a controlled rate, the amount in dollars necessary to pay principal on these loans. All loans which are covered by the program must be long-term or must have been restructured on a long-term basis. Ficorca II also allows companies to receive credit in pesos equal to the amount of dollars obtained (to pay the principal on their foreign currency loans).

Since we verified that FICORCA II is available to all Mexican firms with foreign indebtedness and, thus, is neither targeted to, nor benefitting a specific enterprise or industry, or group of enterprises or industries, we determine that this program is not countervailable.

D. *The FOGAIN Discount Program.* During verification, the Government of Mexico explained that Cinsa had participated in a special FOGAIN discount program available to small and medium-sized companies selling to the following three government agencies: CONASUPO (a marketing company which sells basic staples to low-income families); PEMEX (the national oil company); and ISSTE (the social security program for government employees). Under this program, small and medium-sized companies may receive discounts of accounts receivable from one of these three government institutions for a period of up to three months.

We verified that Cinsa participated in this program based upon its sale of lower-quality enamelware (*i.e.*, tableware and cooking ware) to CONASUPO during five months of the review period. We also verified that Cinsa no longer participates in this program, since it is not a small or medium-sized firm.

This program is not limited to a specific enterprise or industry, or group of enterprises or industries, but is generally available to all small and medium-sized companies. Further, loans under this program are limited and tied to specific domestic sales to CONASUPO, PEMEX, and ISSTE.

Therefore, we determine that this program is not countervailable.

E. *The Regular and Special Temporary Importation Schemes (TIS).* The Regular Temporary Importation Scheme was established by the General Customs Law and is available to any company which temporarily imports products for production, fairs, exhibits and research purposes. The TIS exempts such products from regular import duties for a specified period of time. For inputs used in the production process, the limit is two years; for machinery, the limit is three years. Items imported under the Temporary Importation Scheme may remain permanently in Mexico. However, if this occurs, the company must pay the full import duty on the item. To participate in TIS, a company must apply for and obtain a renewable six-month permit.

In addition to the regular TIS program, on May 9, 1985, the Government of Mexico established a special TIS program. This program is available to all companies making use of the TIS program on a regular basis and which export at least 30 percent of their sales if they import machinery, or 10 percent of their sales if they import physically incorporated inputs. Participation in the special TIS program expedites certain customs procedures by allowing companies to bypass certain bonding and permit renewal requirements. It does not, however, grant the companies any additional import duty reductions or exemptions beyond the regular TIS program.

We verified that the regular TIS program was used by one company under investigation to import steel, which was physically incorporated in its export products. Neither company under investigation used this program to import non-physically incorporated inputs, nor did they apply to participate in the special TIS program. Because the exemption of import duties on physically incorporated inputs is not a countervailable subsidy under the U.S. law, we determine that the regular TIS program is not countervailable to the extent that it allows a duty exemption on physically incorporated items.

We reserve our determination, however, with respect to the regular TIS program as it applies to non-physically incorporated inputs, and with respect to the special TIS program.

III. Programs Determined Not To Be Used

We determine that the following programs have not been used by the companies that manufacture, produce, or export porcelain-on-steel cooking ware in Mexico.

A. *Export Credit Insurance.* Petitioners allege that under this program, exporters may be granted insurance credit against expropriations, defaults, and other political risks, that the premiums charged are inadequate to cover the long-term operating costs of the program, and that the program confers a subsidy to exporters. Since neither company under investigation received export credit insurance from the Government of Mexico during the review period, we determine that this program was not used.

B. *Nacional Financiera, S.A. Loans (NAFINSA).* Petitioners allege that companies in priority areas may receive certain loans at preferential interest rates through NAFINSA. During the review period, neither company under investigation received NAFINSA loans.

C. *Energy Subsidies.* On December 29, 1978, the Mexican government published a decree establishing a program through which PEMEX could grant energy discounts on natural gas and fuel oil. The program will exist through 1988, but is limited to those companies which applied to participate prior to November 1982. Since neither company under investigation applied for or received energy discounts, we determine that this program was not used.

D. *Import Duty Reductions and Exemptions.* Under this program, companies which have basic input and/or machinery and equipment shortages may receive import duty reductions and exemptions of up to 100 percent. The types of companies and products eligible to benefit from these reductions and exemptions are published annually in the *Diario Official.* Since neither company under investigation participated in this program during the review period, we determine that this program was not used.

E. *The National Bank of Foreign Trade (Bancomext).* Petitioners allege that Bancomext provides government financing for capital investment, production costs, and importation of raw materials for the manufacture of exports. We verified that Bancomext provided no funds to the companies under investigation.

F. *Preferential State Investment Incentives.* Certain Mexican states may offer Mexican industries partial or total exemption from state taxes, free or low cost land, or certain local infrastructure improvements as incentives for establishing or expanding industrial facilities, or as incentives for exporting. During the review period neither company under investigation benefited from state investment incentives.

G. *Fondo Nacional de Fomento Industrial (FOMIN).* FOMIN operates as a trust fund, providing funding to certain small and medium-sized companies by either buying stock or providing loans on terms inconsistent with commercial considerations. Since neither of the companies qualify as small or medium-sized firms, and we verified that they did not benefit from this program, we determine that this program was not used.

H. *Guarantee and Development Fund for Medium and Small Industries (FOGAIN).* FOGAIN is a program which provides financing at interest rates below prevailing commercial rates to all small and medium-sized firms in Mexico. Interest rates vary depending upon whether a small or medium-sized business has been granted priority status, and whether a business is located in a zone targeted for industrial. We verified that neither company received loans under FOGAIN, except as discussed in Section II, Part B, of this notice.

I. *Preferential Federal Tax Credits (CEPROFIs).* CEPROFIs are tax credits used to promote National Development Plan (NDP) goals, which include increased employment, encouragement of regional decentralization and industrial development, particularly of small and medium-sized firms. CEPROFI tax credits are also granted for investments in plants and equipment and for certain payments relating to increased employment and wages. We verified that neither company under investigation received CEPROFIs during the review period.

J. *Trust for Industrial Parks, Cities and Commercial Centers (FIDEIN).* Companies may receive low-interest loans or other benefits from FIDEIN, a program aimed at developing industrial parks and cities. Since neither company under investigation is located in an industrial park or received benefits from FIDEIN, we determine that this program was not used.

K. *Port Facilities.* The Mexican porcelain-on-steel cooking ware manufacturers, producers and/or exporters are alleged to benefit from preferential rebates at Mexican port facilities. We verified that the companies under investigation shipped all of their exports of the subject merchandise to the United States by land. Thus, we determine that this program was not used.

L. *Preferential Vessel, Freight, Terminal, and Insurance Benefits.* Certain Mexican companies allegedly benefit from rebates or other discounts provided by the Government of Mexico, or by companies it owns, on

transportation, storage and insurance expenses involved in exporting products to the United States. We verified tht neither company under investigation received such discounts or rebates during the review period.

M. *Drawback Adjusted for Changes in Exchange Rates.* A decree published in the *Diario Official* on April 24, 1985, provides that the drawback of import duties may be adjusted by the changing relationship of the peso to the dollar, thus rebating import duties in pesos, but in terms of constant dollars. None of the companies under investigation received drawbacks of import duties for physically incorporated inputs or other imports during the review period.

N. *Article 94 and Article 15 Loans.* On January 1, 1985, the New Organic Law of the Banco de Mexico went into effect, changing the legal reserve requirements of credit institutions and replacing Article 94 with Article 15.

Under Article 15, a certain percentage of a bank's funds must be deposited with the Banco de Mexico. The new law also stipulates that a certain percentage of loans must be disbursed to several priority sectors and sets maximum interest rates for these sectors. We verified that during the review period neither company received Article 94 or Article 15 loans.

O. *Government-Financed Technology Development.* Under the Industrial Development Plan 1979–1982–1990, certain Mexican companies may receive grants to purchase technological services for new plants. We verified that neither company under investigation received grants for technological development during the review period.

P. *Accelerated Depreciation.* We verified that all companies in Mexico, as of tax year 1984, may benefit from accelerated depreciation under Mexico's General Income Tax Law. Because neither of the companies subject to this investigation claimed accelerated depreciation on the tax return filed the review period, we determine that this program was not used.

IV. Programs Determined Not To Exist

A. *The Mexican Institute of Foreign Trade (IMCE).* On December 27, 1985, the government of Mexico published a decree in the *Diario Official* abolishing IMCE. Final payments on all IMCE accounts reportedly were made in March. We also verified that neither of the companies under investigation received IMCE benefits during 1985; therefore we determine that this program was not used. Further, we determine that this program no longer exists.

Petitioners' Comments

Comment 1. Petitioners contend that since respondents reported only FOMEX loan data for exports of porcelain-on-steel cooking ware to the United States, the benefit from these loans should be allocated over respondents' exports of porcelain-on-steel cooking ware to the United States.

DOC Position. Where we were able to tie the loans to exports of the subject merchandise to the United States, we did allocate the benefits as the petitioners suggest. However, where we were unable to tie the loans, we allocated total loan benefits to total exports. See Section I, Part A.

Comment 2. Petitioners argue that Cinsa's desire to change the allocation of its reported pre-export FOMEX loan receipts to exports to the United States of the products under investigation in its March 18, 1986, submission must be denied because the newly submitted information is unverified. In addition, Cinsa should not be permitted to have FOMEX loan data recorded one way for Mexican banking records and recorded in a different, more favorable way, for purposes of this countervailing duty investigation.

DOC Position. For purposes of this determination, we have allocated Cinsa's total pre-export loan benefit over total exports of all products to all markets during the review period. The Act requires us to base a final determination upon verified information. This is the only method of calculation that is based upon verified information, through no fault of the company. The inaccurate allocation was presented to the Government of Mexico by Cinsa's bank. See Section I, Part A.

Comment 3. Petitioners argue that TRES' FOMEX pre-export loans received in November and December 1984 must be prorated to countervail benefits received in 1985.

DOC Position. Consistent with our policy of attributing loan benefits to the point in time that the cash flow effect occurs, the Department countervails preferential short-term loans when the interest payment is made. Since the interest on FOMEX pre-export loans as well as the principal are paid at the end of a loan's term, any FOMEX pre-export loan benefit would be attributed, in its entirety, to the date of these payments. Therefore, we have not prorated TRES' November and December 1984 pre-export loans, but instead we have attributed the benefit to 1985.

Comment 4. Petitioners contend that since short-term loans were scarce during the review period, the benchmark interest rate for FOMEX per-export loans would have to be increased to reflect the true cost of respondents' alternative financing options.

DOC Position. We disagree. The actual interest rates charged for short-term loans would reflect the scarcity of such financing. Therefore, the short-term benchmark utilized by the Department incorporates this factor.

Comment 5. Petitioners argue that the Department should utilize a weighted average of monthly CPP rates based on comparisons of respondents' monthly pre-export FOMEX borrowing in 1985.

DOC Position. We disagree. We have used the average CPP rate plus the differential, as described in Section I.A., as our national average short-term benchmark. We have calculated the national average commercial short-term benchmark rate in such a way that it can be used as a benchmark throughout the period of investigation, because the loans we are examining were taken out throughout the period.

Comment 6. Petitioners argue that the Department should disregard Cinsa's March 18 and May 12, 1986, submissions on FOMEX pre-export loans, since this new information pertains only to the last half of 1985, the review period for the antidumping duty investigation, and it would be improper for the Department to extrapolate from this half-year data in order to calculate the benefit from this program.

DOC Position. We agree.

Comment 7. Petitioners argue that the benefits Cinsa received in 1985 under the FOGAIN program are countervailable even if the company may no longer participate in this program.

DOC Position. Since we have found this program to be non-countervailable on other grounds, it is inconsequential that Cinsa no longer participates. Please see Section II, Part B.

Comment 8. Petitioners contend that if the Department cannot verify that the interest was paid on FOMEX export loans to U.S. importers, then those loans should be considered to be interest-free and the countervailable benefit should be calculated accordingly.

DOC Position. We disagree. Due to the time limits imposed by the statute, the Department cannot, and does not attempt to, verify every item of information submitted during the course of a proceeding. Instead, the Department selects particular items of information to verify in order to gauge the accuracy of a submission as a whole. In this investigation, we did not select repayment of FOMEX loans by U.S. importers as an item for verification. However, because we were able to

verify those items of information which we did select, and because we have no reason to believe that U.S. importers did not repay the FOMEX loans in question, we are assuming the U.S. importers repaid these loans on time and in full, and we have calculated the benefit from the FOMEX program accordingly.

Comment 9. Petitioners contend that the Department should not use 1986 FOMEX loan rates in calculating FOMEX subsidy margins because a program-wide change implemented by government statute or regulation was not in effect prior to the date of the preliminary determination.

DOC Position. We disagree. In accordance with the Understanding Between the United States and Mexico, FOMEX pre-export and export interest rates have been steadily increasing. In addition, the Government of the United States is regularly informed of those rate changes. Although the changes are not implemented by statute or regulation, we were able to verify that they have, in fact, been carried out. Thus, for purposes of this determination, we have used the FOMEX export loan rates which went into effect prior to our preliminary determination for cash deposit purposes.

Comment 10. Petitioners argue that the Department should not use 1986 FOMEX loan rates in calculating FOMEX subsidy margins because the subsidy element of FOMEX pre-export loans was neither reduced during the review period nor after January 1, 1986, despite the U.S.-Mexico "Under standing" signed in April 1985.

DOC Position. For purposes of this determination, we have used the FOMEX interest rates established on January 1, 1986. See our response to Petitioner's Comment 9 for further details.

Comment 11. Petitioners argue that if the Department substitutes the January or February 1986 FOMEX interest rates in calculating FOMEX subsidy margins, the Department should use as a benchmark a rate equivalent to the cost of an unsubsidized short-term loan from the same time period.

DOC Position. We have compared these rates to benchmarks selected from the same time period. Therefore, in all instances, "apples were compared to apples" and any increase or decrease in the interest rate differentials between our benchmarks and the FOMEX rates is reflected in the *ad valorem* duty deposit rate.

Comment 12. Petitioners argue that benefits received under the PROFIDE program are countervailable because Department officials were unable to verify that the program is operated by the World Bank.

DOC Position. We disagree. We were able to inspect confidential documents during verfication at the offices of the Government of Mexico, which demonstrate that PROFIDE is exclusively funded by, and under the direction of, the World Bank. The World Bank actually approves all loan applications; Bancomext merely acts as a trustee of the program.

Comment 13. Petitioners contend that benefits received under the PROFIDE program are countervailable because the program is run under the auspices of FOMAX, is administered by FOMEX personnel, provides financing at below market rates and is available only to exporters.

DOC Position. We disagree. We verified that PROFIDE funds are only for lending purposes and are not used to maintain Bancomext offices or to pay its staff. Because the PROFIDE program is financed solely by the World Bank, and because these funds must be used as stipulated by the World Bank, this program is not countervailable.

Comment 14. Petitioners argue that the FOMEX Frontier Program benefits a limited group of industries in Mexico—those industries with production, inventories, and sales activities located within 20 miles of the U.S.-Mexican border and in the free zones. Companies that have no manufacturing or sales activities in these regions are not eligible to recieve benefits under this program and, thus, this program is countervailable.

DOC Position. Since we found that the loans in question are specifically and exclusively tied to sales within Mexico and do not benefit the production or exportation of merchandise imported into the United States, the point is moot.

Respondents' Comments

Comment 1. Respondents maintain that FOMEX loans are not countervailable since the subsidy element will be eliminated entirely under the terms of the U.S.-Mexico "Understanding."

DOC Position. We disagree. Whether the subsidy element will be eliminated at a future point in time is irrelevant to this determination. For purposes of final determinations in countervailing duty investigations, we only take into account program-wide changes which occur prior to the preliminary determination and which are verified. To take into account projected, unverifiable changes in subsidy programs would be contrary to section 776(a) of the Act.

Comment 2. Respondents also argue that if FOMEX loans are countervailed, the duty deposit rate should reflect the current subsidy element (*i.e.*, interest rate).

DOC Position. The duty deposit rate does reflect the "subsidy element" through the date of the preliminary determination. Since this is the most recent verifiable data available in this case, this is as current as the deposit rate can be.

Comment 3. Respondents maintain that the Department should use Cinsa's March 18 and May 12, 1986, submissions on FOMEX pre-export loans, as Cinsa is now able to calculate a figure for loans granted on exports of the products under investigation to the United States. This figure was determined by applying Cinsa's calculated percentage of exports to the United States of cooking ware to the company's total FOMEX pre-export loans.

DOC Position. We disagree. Please see Petitioners' Comment 2 and the Department's corresponding response.

Comment 4. Respondents contend that a loan program, such as the FOMEX Frontier program that is available to any company in any region of Mexico is not countervailable, even if the funds are used for a product that is consumed in one area.

DOC Position. Since we determined that TRES' loans under this program were not countervailable for other reasons, this point is moot.

Comment 5: Respondents argue that there are two Temporary Importation Schemes, the regular and special one. The regular TIS, as used by one respondent, is not countervailable because it was only used to import steel, a physically incorporated input used in export products.

DOC Position: We found the benefit received to be non-countervailable. Please see Section II, Part E.

Comment 6. Respondents contend that the Department used an incorrect methodology in calculating TRES' FONEI loan benefits. For the three-year loan, the outstanding balance at the end of each quarter should be utilized in calculating any benefits, not the fixed principal amount of the loan. With respect to the five-year FONEI loan, the original amount of the loan should be used to calculate any benefit, not the outstanding balance, which reflects principal plus rolled-over interest payments.

DOC Position: With respect to the three-year loan, we have used the outstanding balance at the end of each quarter for calculating the benefit. For the preliminary determination, quarterly

principal payments were not taken into account because TRES' response stated that principal payments did not begin until mid-1968 and it was not until verification that we learned that principal payments actually began in 1985. With respect to the five-year loan, we have added unpaid interest at the end of each quarter to the loan's principal and treated this sum as the outstanding balance for our next quarterly calculation. This is because the firm is liable for interest on this amount.

Comment 7: Respondents argue that PROFIDE is not countervailable because: (1) PROFIDE funds come from the World Bank rather that the Mexican government; (2) the program is not linked solely to exportation; and (3) PROFIDE loan rates are linked to the New York City bankers acceptance rate and thus are not below prevailing rates for dollar-denominated loans.

DOC Position: We agree that PROFIDE financing is not countervailable because funding for the program is provided by the World Bank.

Comment 8: Respondents contend that the FOGAIN discount program which is different from FOGAIN's normal programs is not countervailable since it benefits certain government institutions such as CONASUPO and not the company which sells to the government insitutions.

DOC Position: Since we found Cinsa's participation in this program non-countervailable for other reasons, this point is moot.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. We conducted the verification in Mexico from March 3 through March 13, 1986, and on July 19, 1986. During verification, we followed normal verification procedures, including meeting with government officials and inspection of documents, as well as on-site inspection of the companies producing and exporting the merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a)). We conducted a hearing on May 13, 1986. Written and oral views have been received and were considered in reaching this final determination.

Suspension of Liquidation

In accordance with our preliminary countervailing duty determination published on March 7, 1986, we directed the U.S. Customs Service to suspend liquidation on the products under investigation and to require that a cash deposit or bond be posted equal to the estimated net subsidy. However, on March 25, 1986, the countervailing duty final determination was extended to coincide with the final antidumping duty determination, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act). Under Article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than 120 days. Thus, we could not impose a suspension of liquidation on the subject merchandise for more than 120 days without final determinations of subsidization and injury. Therefore, on June 25, 1986, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after July 5, 1986.

We will reinstate suspension of liquidation if the ITC issues a final affirmative determination. If we issue a final countervailing duty order, we will instruct Customs Officers to collect a cash deposit of 1.90 percent *ad valorem*.

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available the the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to a U.S. industry 45 days after the date of publication of this notice. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that injury exists, we will issue a countervailing duty order, directing Customs officers to suspend liquidation and collect cash deposits on porcelain-on-steel cooking ware from Mexico entered, or withdrawn from warehouse, for consumption as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,

Assistant Secretary for trade Administration.

October 1, 1986.

[FR Doc. 86-23034 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-583-509]

Final Negative Countervailing Duty Determination: Porcelain-on-Steel Cooking Ware From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Taiwan of porcelain-on-steel cooking ware. The estimated net subsidy is 0.17 percent *ad valorem*. This rate is *de minimis*, and, therefore, this determination is negative. We have notified the United States International Trade Commission (ITC) of our determination.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NE., Washington, DC 20230; Telephone: (202) 377-0189 (LaCivita) or (202) 377-0167 (Nguyen).

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Taiwan of porcelain-on-steel cooking ware. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Export Financing
- Income Tax Ceiling of 25 Percent for Big Trading Companies

We determine the estimated net countervailable benefits for porcelain-on-steel cooking ware to be 0.17 percent *ad valorem*. Although we have determined these programs to be

countervailable, the respondent received *de minimis* benefits during the review period. Therefore, we determine that no benefits which constitute subsidies within the meaning of Section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Taiwan.

Case History

On December 4, 1985, we received a petition in proper form filed by the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.25), the petition alleged that manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Taiwan receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation and on December 24, 1985, we initiated an investigation (50 FR 53354, December 31, 1985). We stated that we expected to issue a preliminary determination by February 27, 1986.

Since Taiwan is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our intention. On January 16, 1986, the ITC determined that there is a reasonable indication that imports of porcelain-on-steel cooking ware from Taiwan materially injure a U.S. industry (51 FR 3862, January 30, 1986).

On January 3, 1986, we presented questionnaires concerning the petitioners' allegations to the American Institute in Taiwan in Washington, DC. The authorities on Taiwan, First Enamel Industrial Corporation (First Enamel), Tou Tien Metal (Taiwan) Co., Ltd. (Tou Tien), Tian Shine Enterprise Co., Ltd. (Tian Shine), Lin-Fong Industrial Co. Ltd. (Li-Fong), and Four Star International Trading Company (Four Star) responded to the questionnaire on February 6, 1986. Li-Mow Enamelling Co., Ltd., responded on February 18, 1986, and Tou Tien amended its original response on that date.

We received a timely request for exclusion from any countervailing duty order from Four Star, an exporter of porcelain-on-steel cooking ware from Taiwan, who indicated that they receive no benefits under the countervailing duty law. On February 14, 1986, the Department requested that the authorities on Taiwan certify whether Four Star received any benefits from the programs under investigation.

On February 27, 1986, we issued our preliminary negative determination (51 FR 7982, March 7, 1986).

Verification was conducted in Taiwan from March 4 to March 26, 1986.

On March 14, 1986, Collins Co., Ltd., D&J Industrial Co., Ltd., Grand Unique Trading Co., Ltd., Sanyei Corporation (Taiwan) Ltd., Trans-World Prosperity Corporation and Trans-World Associates, Inc., which were previously unknown to petitioners or to the Department as manufacturers, producers or exporters of the products under investigation, filed responses to the Department's questionnaire.

On March 10, 1986, petitioners filed a request to extend the deadline date for a final determination in the countervailing duty investigation to correspond to the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by Section 606 of the Trade and Tariff Act of 1984, (Pub. L. 98–573, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports or the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination (in the countervailing duty investigation) to the date of the final determination in the antidumping investigation (19 U.S.C. 1671d(a)(1))." Pursuant to this provision, the Department granted an extension of the deadline for the final determination in the countervailing duty investigation of porcelain-on-steel cooking ware from Taiwan to July 28, 1986, the original deadline for the final determination in the antidumping investigation.

On May 16, 1986, counsel for respondents in the antidumping duty investigation of porcelain-on-steel cooking ware from Taiwan requested that the Department postpone the final determination until not later than 135 days after the preliminary determination in accordance with section 735(a)(2) of the Act. We granted this request and postponed our final antidumping duty determination until not later than October 2, 1986. Pursuant to section 705(a)(1) of the Tariff Act of 1930 as amended by section 606 of the Trade and Tariff Act of 1984, the deadline for the final countervailing duty determination on porcelain-on-steel cooking ware from Taiwan was also postponed until October 2, 1986, to coincide with the revised date of the final antidumping duty determination (51 FR 15519, April 24, 1986).

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. A hearing was not held because no interested party requestred one in this case.

On August 27, 1986, petitioners requested the Department to examine whether the authorities on Taiwan conferred a subsidy on the manufacturers, producers, or exporters of porcelain-on-steel cooking ware by the excessive remission of duty drawback on the steel used in the production of the merchandise under investigation. On September 12, 1986, respondents replied to petitioners' August 27, 1986, comments.

This allegation was first filed five months after verification and one month prior to the final determination. Section 355.39 of the Commerce Regulations specifies that all information used in making a final determination shall be verified. Because this information was submitted too late to be investigated and verified, the Department considers this allegation to be untimely and did not consider it in making its final determination.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware, including teakettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are provided for in items 654.0815, 654.0824, and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchenware, currently provided for under item 654.0828 of the TSUS, is not subject to this investigation.

Analysis of Programs

Throughout this notice, we refer to certain principles applied to the facts of this investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 24, 1984, issue of the Federal Register (49 FR 18006).

For purposes of this final determination, the period for which we are measuring subsidies (the review period) is calendar year 1984.

Based upon our analysis of the petition, the responses to our questionnaires, the verification, and the amended responses submitted after verification, we determine the following:

I. Programs Determined To Be Countervailable

We determine that subsidies are being provided to manufacturers, producers, or exporters in Taiwan of porcelain-on-steel cooking ware under the following programs:

A. Preferential Export Financing

The Export Loan Discount Regulations of the Central Bank of China permit registered exporters in possession of a letter of credit to apply for low-cost export loans covering up to 85 percent of the value of the export transaction. Export loans are arranged through authorized foreign-currency banks, which may apply for an interest-rate reduction from the Central Bank. Exporters settle the loan with foreign exchange within 180 days or pay an interest-rate penalty on the full amount of the loan.

The Central Bank sets the maximum and minimum interest rates for commercial lending in Taiwan. Export loans were set at rates equal to or below the minimum rates established for commercial lending during the review period. Because the rates given by commercial banks are near the maximum interest rate set by the Central Bank and because no further information is available regarding average commercial lending rates in Taiwan, we used the maximum lending rates set by the Central Bank as our short-term commercial benchmark.

Collins Company, Ltd., obtained export loans to finance exports of the products under investigation to the United States. Because these loans are contingent upon export performance and provide funds to borrowers at interest rates lower than those available for other purposes, we determine that this program confers a benefit which constitutes an export subsidy.

To calculate the benefit, we compared the Central Bank's export-loan rate with its maximum short-term loan rate. We then multiplied the difference by the principal amount and allocated the benefit over the value of Collins' 1984 exports to the United States of the products under investigation. The estimated net subsidy is 0.0073 percent *ad valorem.*

B. Preferential Income Tax Ceiling of 25 Percent for Big Trading Companies

Article 15 of the SEI permits productive enterprises and big trading companies to pay no more than 25 percent corporate income tax on income exceeding NT$500,000, rather than the 35 percent required by Taiwan's graduated corporate income tax law.

In previous cases, we grouped the tax benefits granted to big trading companies under this program with the income tax ceiling granted to productive enterprises. We determined that the 25-percent income tax ceiling granted to productive enterprises did not provide countervailable benefits because benefits were not limited to a specific enterprise or industry, or group of enterprises or industries. However, at verification, we learned that big-trading-company status is granted to companies which meet the following criteria established by the Ministry of Economic Affairs:

1. Earn annual export income according to the following schedule:
1983—20 million US dollars,
1984—20 million US dollars,
1985—50 million US dollars,
1986—100 million US dollars,
1987—to be established;

2. Maintain outstanding capital in excess of NT$200 million;

3. Operate only an export-import business;

4. Maintain overseas subsidiaries in more than three countries.

Six trading companies in Taiwan met this criteria in 1983, four in 1984 and 1985, and three in 1986.

The criteria established by the Ministry of Economic Affairs clearly indicates that the preferential tax treatment extended to big trading companies is based on export performance. Therefore, we determine that this program confers a benefit which constitutes an export subsidy.

Collins Company, Ltd., calculated its tax payable at the 25-percent rate. To calculate the subsidy, we allocated the tax savings resulting from the difference in the 25- and 35-percent rates over the value Collins' export sales. The estimated net subsidy is 0.1610 percent *ad valorem.*

II. Programs Determined Not To Be Used

We determine that the following programs have not been used by the companies that manufacture, produce, or export porcelain-on-steel cooking ware in Taiwan:

A. Export Loss Reserves

Article 31 of the Statute for Encouragement of Investment (SEI) permits exporters to establish an export loss reserve of up to one percent of the previous year's export exchange settlement to be used exclusively to compensate for export losses. Companies treat the export loss reserve as a business expense and deduct it from taxable income in one year, then settle the account and carry the reserve funds forward as taxable income for the next year.

Because this program is contingent upon export sales, we determined this program to be countervailable in the preliminary determination. We calculated a rate based on information provided by Tian Shine for the wrong year. However, at verification, we found that neither Tian Shine nor any of the other respondents received benefits from the export loss reserve program in calendar year 1984.

Therefore, we determine that this program was not used during the period of investigation.

B. Preferential Income Tax Ceiling of 22 Percent

Article 15 of the SEI also permits capital-intensive and/or technology-intensive enterprises engaged in the basic metal production industry, heavy machinery industry, or petrochemical industry to use a marginal tax rate of no more than 22 percent. We verified that none of the companies under investigation used the 22-percent tax ceiling during the period of investigation.

C. Accelerated Depreciation and Tax Holiday

Article 6 of the SEI permits newly-established productive enterprises either to use accelerated depreciation on fixed assets machinery and equipment or to select a five-year holiday on corporate income taxes. In addition, expanding enterprises may participate in a four-year tax-holiday on increased profits from expansion or a rapid depreciation of newly purchased buildings or equipment. We verified that none of the companies under investigation either claimed accelerated depreciation or took a tax holiday during the period of investigation.

D. Duty Exemptions and Deferrals on Imported Equipment

Article 21 of the SEI allows productive enterprises to pay import duties on selected machinery and equipment in a series of installments beginning one year from the date of importation. In addition, qualified enterprises are exempt from import duties on selected machinery and equipment used for the establishment or expansion of an approved project or for research and development. We verified that none of

the companies under investigation received duty exemptions or deferrals during the period of investigation.

E. Preferential Long-Term Loans

Article 84 of th SEI permits the Executive Yuan to establish and administer a special development fund to promote investments of interest to national economic development. We verified that none of the companies under investigation received Article 84 financing with respect to U.S. sales of the products under investigation.

Verification

In accordance with 776(a) of the Act, we verified the data used in making our final determination. We conducted verification in Taiwan from March 4 through March 26, 1986. During verification, we followed normal verification procedures, including meeting with government officials and inspection of documents, as well as on-site inspection of the companies producing and exporting the merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a)). None of the interested parties requested a hearing. Therefore, a hearing was not held in this investigation.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Since this determination is negative, the investigation will be terminated upon the publication of this notice in the **Federal Register**. Hence, the ITC is not required to make a final injury determination.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

October 2, 1986.

[FR Doc. 86-23033 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Brookdale Hospital Medical Center; a Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86-090R. Applicant: Brookdale Hospital Medical Center, Brooklyn, NY 11212. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Original notice of this resubmitted application was published in the **Federal Register** of February 20, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides magnification to 250 000 and a lattice resolution to 0.344 nanometers. The National Institutes of Health advises in its memorandum dated September 3, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientif value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff

[FR Doc. 86-23019 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Columbia University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 86-166. Applicant: Columbia University, New York, NY 10032. Instrument: Heterodyne Interferometer. Manufacturer: University of Neuchatel, Switzerland. Intended Use: See notice at 51 FR 15820.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) noninvasive measurements of vibrations in the inner ear with a minimum amplitude of 2.0×10^{-12} meters and (2) a spot size of 10.0 micrometers. The National of Institutes Health advises in its memorandum dated September 3, 1986 that (1) these capabilities are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23020 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Johns Hopkins University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 86-118. Applicant: Johns Hopkins University, Baltimore, MD 21205. Instrument: NMR Spectrometer, Model AM 360 WB. Manufacturer: Bruker Instruments, West Germany. Intended Use: See notice at 51 FR 6576.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value of the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (April 9, 1985).

Reasons: The foreign instrument provides: (1) Gradient power supplies, waveform memories, and image processors for NMR imaging and microscopy, (2) field drift compensation, and (3) wide bore probes. The National Institutes of Health advises in its memorandum dated August 25, 1986 that (1) the capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument

being manufactured at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23021 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

The Mount Sinai School of Medicine; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 86-168. Applicant: The Mount Sinai School of Medicine, New York, NY 10029. Instrument: Electronic Circuit Board (High Speed Framestone). Manufacturer: Joyce Electronics Limited, United Kingdom. Intended Use: See notice at 51 FR 13275.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated September 3, 1986 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23022 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-05-M

University of Illinois, Urbana-Champaign Campus; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86-074. Applicant: University of Illinois, Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Dye Laser, Model FL 2002. Manufacturer: Lambda Physik, West Germany. Intended Use: See notice at 51 FR 5752.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is to be used as an accessory to an existing instrument previously imported for the use of the applicant. The article provides a 0.2 cm^{-1} bandwidth, an average power of 3W and a ASE-background of 5×10^{-3} in the wavelength range 350-500nm. The article is manufactured by the same manufacturer as the existing instrument. We know of no comparable accessory scientifically equivalent to the foreign article for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23023 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Reflected Light Microscopes; University of Wisconsin et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-174. Applicant: University of Wisconsin-Madison, Madison, WI 53706. Intended Use: See notice at 51 FR 13275.

Docket Number: 86-176. Applicant: University of Pennsylvania, Pennsylvania Muscle Institute, Philadelphia, PA 19104-6083. Intended Use: See notice at 51 FR 15820.

Article: Tandem Scanning Reflected Light Microscope. Manufacturer: Sluzba Vyzkumn, Czechoslovakia. Advice Submitted By: National Institutes of Health: September 3, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign instruments provide confocal stereoscopic viewing of subsurface layers and computer reconstructed three-dimensional images. The National Institutes of Health advises in its respectively cited memoranda that (1) this capability is pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of eqivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23028 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting and Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a separate public meeting and separate hearing at the Harbor House, Nantucket, MA, as follows:

Public Meeting—On October 21, 1986, at 1 p.m. the Council will discuss reports of the foreign fishing, lobster and demersal finfish oversight, large pelagics and sea scallops committees; reports on the Atlantic States Marine Fisheries Commission and Mid-Atlantic Council meetings, as well as to discuss other fishery management and administrative matters. The meeting will adjourn on October 22 at approximately noon.

Public Hearing—October 22, from approximately 10:30 a.m. to 11:30 a.m., the Council will discuss and consider recommendations of the Northeast Regional Director will respect to the status of the resource and any possible changes to the specification of the meat count management standard in the fishery management plan. For further information, contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, (Route One), Saugus, MA 01906; telephone: (617) 231-0422.

Dated: October 7, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-22991 Filed 10-9-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; National Marine Fisheries Service, Northwest and Alaska Fisheries Center (P77#20)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217 through 222).

1. *Applicant:*

a. *Name:* National Marine Fisheries Service, Northwest and Alaska Fisheries Center, National Marine Mammal Laboratory.

b. *Address:* 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:*

Gray whale (*Eschrichtius robustus*), 150
Humpback whale (*Megaptera novaeangliae*), 150

4. *Type of Take:* Thirty of each species will be radio tagged per year.

5. *Location of Activity:* Worldwide.

6. *Period of Activity:* 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above application are available for review in the following office(s):

Protected Species Division, Office of Protected Species and Habitat Conservation, NMFS, 1825 Connecticut Avenue NW, Room 805, Washington, DC;
Director, Alaska Region, NMFS, 709 West 9th Street, Federal Bldg., Juneau, AK 99802;
Director, Northeast Region, NMFS, 14 Elm Street, Federal Bldg., Gloucester, MA 01930;
Director, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115;
Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and
Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: October 3, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–22992 Filed 10–9–86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permit Modification; NMFS, Southeast Fisheries Center

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 528 issued to NMFS, Southeast Fisheries Center, Mississippi Laboratories, Pascagoula Facility, Post Office Drawer 1207, Pascagoula, Mississippi 39568–1207, on October 22, 1985 (50 FR 43760) is modified as follows:

Section A is modified by substituting the following:

A. "The following animals may be taken incidental to scientific sampling with bottom trawls, midwater trawls, or purse seines each year."

This modification became effective October 3, 1986.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Protected Species Division, National Marine Fisheries Service, 1825 Connecticut Avenue, Room 805 NW., Washington, DC and;
Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 3, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–22993 Filed 10–9–86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Withdrawal of Application: Web of Life Outdoor Center (P380)

On April 21, 1986, notice was published in the **Federal Register** (51 FR 13548) that an application had been filed by Web of Life Outdoor Education Center, P.O. Box 530, Carver, Massachusetts 02543, for a permit to harass twenty five (25) humpback whales (Megaptera novaeangliae) at Southern Stellwagen Bank Massachusetts.

Notice is hereby given that this application was withdrawn and the withdrawal request has been acknowledged and accepted without prejudice by the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue NW, Room 805, Washington, DC; and
Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: October 3, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–22994 Filed 10–9–86; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information Toy Caps

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMAMRY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S. 3501 *et seq.*), the Consumer Product Safety Commission (CPSC) has submitted to the Office of Management and Budget a request for approval, through October 1, 1989, of a proposed collection of information in the form of required reporting by firms that distribute toy caps emitting sound in the 138–158 decibel range.

In 1970 the Food and Drug Administration (FDA), to protect children from potential hearing loss, banned toy caps that produced peak sound pressure levels at or above 138 decibels when tested in a prescribed way. In 1971 the FDA refined the test procedure and exempted some caps from the ban. In 1973 the CPSC republished and began enforcing the requirements.

The exemption provisions permit the marketing of toy caps emitting sound at levels between 138 and 158 decibels, so

long as: (1) The packages and accompanying literature bear specified warning labels; (2) firms notify the CPSC of their intention to distribute; (3) firms participate in programs to develop caps that produce sound levels of not more than 138 decibels; and (4) firms submit progress reports, at least every three months, concerning the status of their programs.

The CPSC requires 138–158 decibel toy caps to bear the specified warning labels, but has not, since 1973, taken any steps to enforce exemption provisions (2), (3), and (4) above. Because of this lack of enforcement, the CPSC had not sought OMB approval under the Paperwork Reduction Act for the reporting required by the exemption. In July 1986, however, the CPSC reconsidered its policy of non-enforcement and decided to seek such approval.

The information will be used by the CPSC's compliance staff to ascertain what firms currently manufacture or import 138–158 decibel toy caps. If the exemption provisions are enforced, the information will permit the staff to determine which firms are complying with them. In addition, the information concerning the toy cap firms' programs to reduce the decibel levels could be used to devise a strategy for encouraging—or even requiring—firms to reduce the sound levels of caps below 138 decibels.

Additional details about the proposed collection of information:

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, DC 20207.

Title of information collection: Distribution of toy caps producing peak sound pressure levels greater than 138 decibel but less than 158 decibels.

Type of request: New plan.

Frequency of collection: One-time only reporting for distribution notification and quarterly reporting for program reports.

General description of respondents: Firms that manufacture or distribute toy caps.

Estimated number of respondents: 45.

Total estimated number of hours for all respondents: 180.

Comments: Comments on this request for approval of a proposed collection of information should be addressed to Marina Gatti, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of the request for approval of the proposed collection of information are available from Francine Shacter, Office of Program Management and Budget, Washington, DC 20207; telephone (301) 492–6529.

This is not a proposal to which 44 U.S. 3504(h) is applicable.

Dated: October 7, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86–23056 Filed 10–9–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of the Fort Drum Outpatient Care Demonstration Project.

SUMMARY: Chapter 55, Title 10 U.S.C. 1092(a) authorizes OCHAMPUS to establish demonstrations of alternative approaches to reimbursement for administrative charges for health care plans. OCHAMPUS has determined that a potential exists to enhance beneficiary satisfaction and contain DoD costs through a preferred provider approach, wherein OCHAMPUS agrees to pay the CHAMPUS beneficiary cost-share and providers agree to always accept assignment and be paid less than the current allowable charge for all DoD beneficiaries. This will be tested in an area where there are large concentrations of active duty personnel, no military inpatient facility and empanelment of all active duty family members in an Army family practice. This notice sets forth the general parameters of the demonstration.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT:.

Project Officer: LTC(P) Robert T. Moore, MSC, USA, Office of Demonstrations, OCHAMPUS, Washington, DC 20301–1600 [202–297–8975].

Commander, Wilcox Army Health Clinic: COL James R. Schwab, MC, USA, Commander, Wilcox Army Health Clinic, Fort Drum, NY 13602–5004 [215–772–4046]

Claims Processing and Provider Agreements: George Schobel, Vice President, Blue Cross and Blue Shield of Rhode Island, Inc., One Waybosset Hill, Providence, RI 02903 [401–272–8500]

SUPPLEMENTARY INFORMATION: OCHAMPUS has a demonstration project referred to as the Fort Drum Outpatient Care Demonstration Project, in a three county area centered around Fort Drum, New York. The CHAMPUS fiscal intermediary for the area, Blue Cross and Blue Shield of Rhode Island (BCBSRI), Inc., a recognized health care plan manager in the State of New York, is responsible for executing agreements of participation with any provider who wishes to participate in this demonstration and for reimbursing all CHAMPUS claims, participating and non-participating, for authorized health care services delivered to CHAMPUS beneficiaries as identified in the CHAMPUS regulations, DoD 6010.8–R, CHAMPUS Policy Manual, CHAMPUS Operations Manual-Fiscal Intermediary-Medical and in final decisions of appeals cases issued by the Assistant Secretary of Defense (Health Affairs). The Uniformed Services are responsible for paying for all authorized care provided to active duty Service Members and members on Active Duty for Training (ADT). It should be noted that CHAMPVA beneficiaries are not eligible for the outpatient services described in this demonstration and the associated change in cost-share. Those CHAMPUS authorized providers whose practice is conducted in the following Zip codes are eligible to execute Agreements of Participation with BCBSRI and the US Army and to be regarded as participating providers in this demonstration subject to the conditions and limitations described herein and in the above references:

13083 13114 13131 13142 13144 13145 13302
13312 13327 13343 13345 13367 13404 13412
13437 13601 13602 13605 13606 13607 13608
13609 13610 13611 13612 13615 13616 13618
13619 13620 13622 13623 13624 13626 13627
13628 13629 13632 13634 13636 13638 13640
13641 13642 13643 13645 13646 13648 13650
13651 13653 13656 13657 13659 13661 13665
13671 13673 13675 13679 13682 13685 13691
13692 13693 13698

CHAMPUS services included in the demonstration which are not subject to the beneficiary cost-share are all authorized outpatient medical services except those associated with adjunctive dental care, the Program for the Handicapped and outpatient mental health care. Authorization and cost-share requirements associated with adjunctive dental care and the Program for the Handicapped are not waived under this demonstration. Outpatient mental health care is subject to the following cost-share limitations:

Patients referred for outpatient mental health care by a member of the provider staff of Wilcox Army Health Clinic and who choose to receive that care from a provider participating in this demonstration, will be subject to a $4.00 per visit copayment, to be collected by the participating provider;

Patients who seek outpatient mental health care without a referral by a member of the provider staff of Wilcox Army Health Clinic will be subject to the full CHAMPUS cost-share; Patients who are referred for outpatient mental health care by a member of the Wilcox Army Health Clinic and who choose to receive care from a provider who is not participating in this demonstration are subject to the full CHAMPUS cost-share requirements.

CHAMPUS services excluded from this demonstration project are all inpatient care, adjunctive dental care, Program for the Handicapped and services provided under the Home Health Care Demonstration Project. These authorized services remain available in the demonstration area but are subject to the prescribed cost-share on the part of the beneficiary.

Beneficiaries who receive medical outpatient services covered under this demonstration from a provider participating in this demonstration will have no cost-share responsibilities for such services. Beneficiaries who receive any outpatient services from any provider who is not participating in this demonstration must pay the current CHAMPUS coninsurance requirement. For example, an active duty family member goes to a provider participating in this demonstration for an extensive consultation, (Current Procedural Terminology Version 4 (CPT–4), Code 90610). The provider's charge for this service is $100.00. Since this is a participating provider, the beneficiary pays nothing in coinsurance and CHAMPUS would pay the provider $100.00, since the charge is at or below the negotiated fee limit for that CPT–4 Code.

However, if that same beneficiary went to a non-participating CHAMPUS approved provider whose charge was $170.00, the beneficiary would pay (assuming that the annual deductible requirement had been met) twenty percent of the CHAMPUS allowable charge for that procedure plus any amount above the allowable charge. Since the current CHAMPUS allowable charge for that procedure in New York State is $125.00, the beneficiary would pay 20% of $125.00, or $25.00, plus the difference between the providers charge of $170 and the CHAMPUS allowable charge of $125.00, or $45.00 for a total amount paid by the beneficiary of $70.00. CHAMPUS would pay the non-participating provider eighty percent of the allowable charge of $125.00, or $100.00. Of course, if the beneficiary is responsible for all charges.

CHAMPUS approved providers with practices in the demonstration area who choose not to participate in this demonstration project are still eligible to participate in CHAMPUS under the current limits of allowable charges for authorized benefits and with the current CHAMPUS cost-share paid by the beneficiary. These providers should submit their claims for care provided to CHAMPUS beneficiaries to: CHAMPUS/CHAMPVA, P.O. Box 786, Providence, RI 02901. Any claims that such providers have for providing authorized emergency care to an active duty or Active Duty for Training Service Member should be sent to the Central Billing Office. c/o Wilcox US Army Health Clinic, Fort Drum, NY 13602–5004.

CHAMPUS approved providers with practices in the demonstration area who choose to participate in this demonstration project will submit their claims for any care provided to either a CHAMPUS beneficiary or an active duty or Active Duty for Training Service Member to Central Billing Office, c/o Wilcox US Army Health Clinic, Fort Drum, NY 13602–5004.

The demonstration is scheduled to run from October 1, 1986 through September 30, 1989.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

September 30, 1986.

[FR Doc. 86–22427 Filed 10–9–86; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 4, 1986; Tuesday, November 11, 1986; Tuesday, November 18, 1986; and Tuesday, November 25, 1986; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 7, 1986.

[FR Doc. 86–23018 Filed 10–9–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 7, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Air Base Performance will meet at 155 Tactical Reconnaisance Group, Lincoln MAP ANG NE; HQ Stragetic Air Command, Offutt AFB NE; Ellsworth AFB SD; HQ Military Airlift Command and HQ Air Force Communications Command, Scott AFB IL during the period of October 27–29, 1986.

The purpose of these meetings is to receive briefings on and to observe factors affecting air base development, performance, and survivability, threats to air bases, basing posture, and logistics.

These meetings will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically

subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–23142 Filed 10–9–86; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

Correction

In FR Doc. 86–22661, appearing on page 35685 in the issue of Tuesday, October 7, 1986, third column, in the **SUMMARY**, in the eleventh line, "8:00 a.m." should read "8:00 p.m.".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

National Petroleum Council; Future Supply/Demand Factors Task Group;

Notice is hereby given that the Future Supply/Demand Factors Task Group will meet in October 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Future Supply/Demand Factors Task Group's activities will be to identify the major factors that will affect the U.S.'s future supply and demand of oil and gas and to evaluate the influence such factors could have on the vulnerability of the U.S. to future energy crises.

The Future Supply/Demand Factors Task Group will hold its sixth meeting on Thursday, October 23, 1986, starting at 9:00 a.m., in Room 300–302 of the Chevron Corporation, 575 Market Street, San Francisco, California.

The tentative agenda for the Future Supply/Demand Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Future Supply/Demand Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Future Supply/Demand Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 3, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–23062 Filed 10–9–86; 8:45am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–C&E–86–47; OFP Case No. 61062–9323–20, 21–24]

Order Granting the Continental Cogeneration Corporation Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting Exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to Continental Cogeneration Corporation, general partner of Continental Energy Associates, Ltd. (CCC or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a facility up to 125 MW (net, approximate) combined cycle cogeneration facility as defined in 10 CFR 500.2, with a heat input rate of up to 1,050 MMBTU/hr and designed to produce electricity and process steam at the Humboldt Industrial Park (HIP), Hazleton, Pennsylvania. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on December 8, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–093, Washington, DC 20585, Telephone (202) 252–1774

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: On June 13, 1986, CCC petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 125 MW (net, approximate) combined cycle cogeneration facility (consisting of gas turbine generators, waste heat recovery steam generators, a steam extraction turbine generator and ancillary equipment). As more than 50 percent of the net annual generation of electric power from the unit will be sold to Pennsylvania Power and Light (PP&L), the unit is, by definition, an electric powerplant under 10 CFR 500.2. The facility will produce steam for sale to supply HIP's needs.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including CCC's demonstration to ERA, in accordance with 10 CFR 503.37(a)(2), that:

1. It is in the public interest to grant an exemption to the cogeneration facility because of special circumstances in accordance with 10 CFR 503.37(a)(2)(i); and
2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(2)(ii).

Procedural Requirements

In accordance with the procedural

requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on July 29, 1985 (51 FR 27074), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on September 12, 1986; no hearing was requested. The Community Area New Development Organization submitted comments one day out of time. The comments, which supported the project, were accepted.

PP&L made comments to the effect that CCC's petition for exemption was unclear in several areas and requested that ERA investigate these to insure CCC satisfied the FUA requirements. ERA, after a discussion with the petitioner and a careful review of the petitioner's original petition and supplemental comments has concluded that any misunderstandings regarding these issues have been clarified and that CCC's facility is a cogeneration facility and meets the requirements of the Fuel Use Act.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that the construction and operation of this facility is in the public interest and that CCC has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37 and 503.13. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to CCC to permit the use of natural gas as the primary energy source for its cogeneration facility at the Humboldt Industrial Park, Hazleton, Pennsylvania.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on October 1, 1986.

Robert L. Davies,

Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 86-22997 Filed 10-9-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-56-NG]

Border-to-Border Pipeline Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 18, 1986, of an application from Border-to-Border Pipeline Company (Border-to-Border) for blanket authorization to import Canadian natural gas for short-term and spot market sales to customers in the United States or to act as an agent for such sales. Authorization is requested to import up to 400,000 McF per day of Canadian natural gas for a two-year term beginning on the date of first delivery of the import. Border-to-Border proposes to purchase natural gas from Bonanza Resources, Ltd. (Bonanza), through its affiliate, Canusa Energy (Canusa) for delivery of up to 200,000 Mcf per day, and to purchase the remaining 200,000 Mcf per day from various other unidentified Canadian suppliers. Border-to-Border intends to utilize existing pipeline facilities for the transportation of the volumes imported. Border-to-Border proposes to submit quarterly reports giving details of individual transactions within 30 days following each calendar quarter.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 10, 1986.

FOR FURTHER INFORMATION CONTACT:

Tom Dukes, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9590

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. They must be filed no later than 4:30 p.m. e.s.t., November 10, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate

why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Border-to-Border's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 6th, 1986.

Barton R. House,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–22996 Filed 10–9–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP86–523–000 and CP86–524–000]

Iroquois Gas Transmission System; Iroquois Pipeline Project; Notification of Schedule for Public Scoping Meetings

October 8, 1986.

In response to numerous public comments, the Federal Energy Regulatory Commission (FERC or Commission) hereby announces a public scoping meeting to be held in Torrington, Connecticut. The meeting will be conducted to identify the scope and significance of environmental impact associated with the Iroquois Gas Transmission System (Iroquois) proposal to import natural gas from Canada. The meeting will be held: Tuesday—October 28, 1986, 9:00 a.m. to 1:00 p.m., Torrington Civic Center, 101 Litchfield Street, Torrington, Connecticut 06790.

The Commission's Chairman, Martha Hesse, will preside at the meeting, accompanied by the Commission's environmental staff.

On September 3, 1986, the FERC staff issued a "Notice of Intent to Prepare A Draft Environmental Impact Statement And Request For Comments On Its Scope" for the project. The notice contained a brief description of the action proposed, a general location map, a tentative outline of issues, and information on comment procedures. The deadline for filing scoping comments was originally October 6, 1986. However, upon consideration of a request by the Attorney General for the State of Connecticut for an extension of the deadline, the Secretary of the Commission granted a 45-day extension of that deadline. Therefore, comments are now due on or before 5:00 p.m. on November 20, 1986.

The public scoping meeting is intended to give local interested parties an opportunity to provide information and assistance directly to the Commission. This information will be used to define the range of environmental issues and concerns that need to be addressed in the environmental impact analysis. Concerns involving individual right-of-way negotiations will not be discussed or resolved in this forum.

Public Comment Procedure

Due to the numerous comments which are expected and the limited time available, persons representing groups or towns will be given priority for speaking. This will allow the broadest possible range of comments to be provided to the Commission. To allow as many speakers as possible, initial statements will be limited to 5 minutes.

Requests to speak should be submitted in writing to the Commission's Secretary, Kenneth Plumb, no later than October 22, 1986. Requests should identify the names of the speaker and the town or group represented, and should be sent to the following address: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426.

Comments may also be submitted in writing. Written comments should reference Docket No. CP86–523–000 and should be sent to the above address. As noted above, the deadline for written comments is November 20, 1986.

Comments or interventions previously filed with the Commission need not be refiled in response to this notice.

Further information concerning the public scoping meeting or about the Iroquois proposal is available from Secretary Plumb, telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–23166 Filed 10–9–86; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3581–001]

Keating Associates; Intent To Prepare Environmental Impact Statement, Scoping Session, and Public Hearings

October 8, 1986.

Keating Associates filed on February 28, 1984, an application for license for the El Portal Hydroelectric Project, FERC Project No. 3581. The project would be located on the Merced River at El Portal, Mariposa County, California.

Public notice of the application was issued by the Commission on May 15, 1985. The application has been mailed to interested agencies for their review and comments. The Commission's staff has determined that issuance of a license for the proposed hydroelectric project would constitute a major federal action significantly affecting the quality of the human environment. The staff, therefore intends to prepare an invironmental impact statement (EIS) in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Scoping Session

Interested persons and agencies are invited to participate in a scoping meeting to discuss the environmental impact issues associated with the proposed El Portal Hydroelectric Project. The scoping session will be held on Thursday, November 13, 1986, commencing at 1:00 p.m., and will be held at the Federal Building at 801 I Street, Room 210, Sacramento, California 25814 (across from City Hall). Scoping sessions are utilized by the Commission's staff to: (1) Present environmental issues, preliminarily identified for coverage in the EIS, to the public and experts familar with the El Portal project; (2) receive input from the public and experts on the issues presented; (3) clarify the significance of issues; (4) identify additional issues for EIS treatment; and (5) identify issues that do not merit EIS treament. Agencies and individuals with environmental expertise and concerns are encouraged to atttend the meetings and assist FERC staff in determining the issues to be addressed in the EIS.

Public Hearings

Interested officials and members of the public are invited to express their views about the project in public hearings. The public hearings will be held on Wednesday, November 12, 1986, commencing at 7:30 p.m., at the Mariposa High School Auditorium, 5074 Old Highway North (8th and Old Highway North), Mariposa, California

95338, and on Thursday, November 13, 1986, commencing at 8:00 p.m., at the University of California at Davis, 198 Young Hall (on A Street), Davis, California 95616. The public hearings will be conducted by the Commission's staff.

At the public hearings, persons may give their statements orally or in writing. The hearings will be recorded by a stenographer, and all statements (oral and written) will be come part of the public hearing records. In addition, the public hearing records will remain open until January 13, 1987, and anybody may submit written comments on the project until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should clearly show the project name and number (Project No. 3581–001) on the first page.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–23031 Filed 10–9–86; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8303–001 et al.]

Hydroelectric Applications, (The Power Authority of the State of New York et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Transfer of License.

b. Project No.: 8303–001.

c. Date Filed: September 5, 1986.

d. Applicants: The Power Authority of the State of New York and the City of Rome, New York.

e. Name of Project: Delta.

f. Location: On the Mohawk River in Oneida County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–(825(r).

h. Contact Person:

Charles M. Pratt, Senior Vice President and General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019, (212) 397–6200.

Carl J. Eilenberg, Mayor, City of Rome, City Hall, Rome, New York 13440, (315) 336–6000.

i. Comment Date: October 21, 1986.

j. Description of Project: On March 17, 1986, the Commission issued an "Order Issuing License and Denying Competing Application For License". The license was issued to the Power Authority of the State of New York (PASNY) and the competing application filed by the City of Rome, New York (Rome) was denied.

On September 5, 1986, both of the above mentioned parties filed a joint application to transfer the license from PASNY to Rome. PASNY has decided not to proceed with construction of the project. Rome is willing and desires to proceed with construction of the project, and therefore, transfer of the license would facilitate development of the hydropower resource.

k. This notice also consists of the following standard paragraphs: B and C.

2 a. Type of Application: Transfer of License.

b. Project No.: 2600–007.

c. Date Filed: August 12, 1986.

d. Applicant: Bangor Hydro-Electric Company and Bangor Pacific Hydro Associates.

e. Name of Project: West Enfield.

f. Location: On the Penobscot River in Penobscot County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–(825(r).

h. Contact Person: Carroll R. Lee, Vice President, Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04401, (207) 945–5621.

i. Comment Date: October 24, 1986.

j. Description of Transfer: The license for this project was issued to Bangor Hydro-Electric Company on June 26, 1984. It is proposed to transfer the license to Bangor Hydro-Electric Company and Bangor-Pacific Hydro Associates. Bangor-Pacific Hydro Associates is a general partnership organized under the laws of the State of Maine, comprised solely by Bangor Hydro-Electric Company and Pacific Lighting Energy Systems. The transfer is necessary to facilitate financing and construction of the project.

k. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Amendment of License.

b. Project No: 2744–004.

c. Date Files: March 5, 1986 and supplemented August 8, 1986.

d. Applicant: Menominee Company.

e. Name of Project: Menominee and Park Mill Hydro Project.

f. Location: On the Menominee River in Marinette County, Wisconsin and Menominee County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ronald E. Walk, Facilities Manager, Scott Paper Company, 3210 Riverside Avenue, Marinette, WI 54143, (715) 735–6644.

i. Comment Date: November 5, 1986.

j. Description of Project: The Menominee and Park Mill Hydro Project No. 2744 as licensed consists of:

A. The Menominee Development—(1) A concrete gravity dam structure approximately 26 feet high and 456 feet long with a normal operating head of 12 feet; (2) a reservoir with normal elevation of 594 feet m.s.l. and surface area of approximately 143 acres; (3) a spillway section consisting of twelve 20-foot-wide by 11-foot-high Taintor gates and a 150-foot-long overflow spillway; (4) a 13-foot-long concrete gravity closed dam and a 20-foot-long earth embankment with concrete core wall at the south end of the spillway; (5) a concrete powerhouse housing two 458-kW generators and two 662–kW generators for a total installed capacity of 2,240 kW; (6) three 500–kVA single-phase 480/4, 160–V step-up transformers; (7) generator leads; (8) a 1-mile-long 4.16–kV transmission line connected to the Park Mill Powerhouse; and (9) appurtenant facilities.

B. The Park Mill Development—(1) A concrete gravity dam structure appoximately 22 feet high and 538 feet long with a normal operating head of 16 feet; (2) a reservoir with a normal elevation of 610 feet m.s.l. and a surface area of approximately 539 acres; (3) an intake headrace canal approximately 2,400 feet long; (4) a spillway section consisting of seven 20-foot wide by 11-foot-high Taintor gates and 350 feet of overflow spillway with flashboards; (5) a brick and concrete powerhouse housing one 225–kW generator, two 420–kW generators, and two 430–kW generators for a total installed capacity of 1,925 kW; (6) four three-phase 1–MVA 480/4, 160–V step-up transformers; (7) generator leads; and (8) appurtenant facilities.

The Applicant proposes to amend its license by: (1) Increasing the total installed capacity by 450–kW with the installation of one generator at an existing flume at the Park Mill site; and (2) increasing the annual generation by 2,818 MWh. The Applicant states that the new facilities would be in the same general project area, and that no adverse impacts would be expected other than those addressed in the original licensing process. The project would be operated as already licensed with no other charges.

k. Purpose of Project: All of the power generated by the Applicant both at its Park Mill and Menominee developments is consumed in the Application's paper operations.

l. This notice also consists of the following standard paragraphs: B, C, and D1.

4 a. Type of Application: Surrender of License.

b. Project No.: 9103–002

c. Date Files: August 19, 1986.
d. Applicant: Emil G. Sitkei
e. Name of Project: Cherry Creek.
f. Location: On Cherry Creek, tributary to the Marys River, in Benton County, Oregon.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Emil G. Sitkei, 25204 Cherry Creek Road, Monroe, OR 97456, (503) 847–5448.
i. Comment Date: November 5, 1986.
j. Description of Project: On July 21, 1986, a license was issued to Emil G. Sitkei to construct, operate, and maintain the Cherry Creek Project No. 9103 to be located on Cherry Creek, a tributary to the Marys River, in Benton County, Oregon. The project would consist of a dam, an intake structure, a pipeline, a penstock, a powerhouse containing a generating unit with a capacity of 15 kW, a tailrace, a transmission line, and appurtenant facilities.

Licensee states that, after careful and intensive study of the provisions of the license, the decision has been made to surrender the license becaue expenses, as required by the license, are beyond what licensee had estimated.

k. Anyone desiring to be heard or to make any protest about this action should file a motion to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214 (1985). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 385.211 for protests. To become a party, or to participate in any hearing that might be held, a person must file a motion to intervene in accordance with the Commission's Rules. The Commission's address is: 825 North Capitol Street, NE., Washington, DC 20426.

5 a. Type of Application: Major License.
b. Project No: 8763–000.
c. Date Filed: May 9, 1986.
d. Applicant: Power Mining, Inc.
e. Name of Project: Woods Falls.
f. Location: On the Black River in Jefferson County, New York.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contract Person: Mr. David R. Bristol, Power Mining, Inc., One Lincoln Center, Suite 1225, Syracuse, NY 13202, (315) 471–2881.
i. Comment Date: November 28, 1986.
j. Description of Project: The proposed project would consist of: (1) A new 13-foot-high, 355-foot-long concrete gravity dam; (2) a new reservoir with a normal water surface area of 35 acres, negligible storage capacity, and a water surface elevation of 372 feet USGS; with (3) 4-foot-high flashboards; (4) three new stoplog bays; (5) three new sluice gates; (6) a new excavated intake channel; (7) a new concrete powerhouse containing two generating units with a capacity of 2,700 kW each for a total installed capacity of 5,400 kW; (8) a new excavated tailrace; (9) the 4.16-kV generator leads; (10) the 4.16/23-kV, 6-MVA transformer; (11) the 650-foot-long, 23-kV transmission line; and (12) appurtenant facilities. The applicant estimates that the average annual generation would be 26,000,000 kWh.
k. Purpose of Project: Project power would be sold to the Niagara Mohawk Power Corporation.
l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

6 a. Type of Application: Preliminary Permit.
b. Project No: 10031–000.
c. Date Filed: July 7, 1986.
d. Applicant: Santaquin City Corporation.
e. Name of Project: Summit Creek.
f. Location: Summit Creek, near Santaquin City, in Utah County, Utah.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contract Person: Honorable Herb Lloyd, P.O. Box 277, Santaquin, UT 84655, (801) 754–2211.
i. Comment Date: November 21, 1986.
j. Description of Project: The proposed run-of-the-river project would consist of: (1) An 8-foot-high, 40-foot-long, concrete diversion dam across Summit Creek; (2) a 20-inch-diameter, 15,048-foot-long penstock; (3) a powerhouse containing one turbine generator unit with a rated capacity of 800 kW, operating under a head of 690 feet and a hydraulic capacity of 14 cfs, and producing an estimated annual generation of 3,470,988 kWh; and (4) a 300-foot-long, 12.5-kV transmission line interconnecting the project to an existing Utah Power and Light Company line. The proposed project would partially be located in Uinta National Forest. The proposed project would be located in sections 13 and 24, Township 10 South, Range 1 East, SLB&M, and sections 19 and 30, Township 10 South, Range 2 East, SLB&M, Utah County, Utah.
k. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,000.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

7 a. Type of Application: Minor License.
b. Project No: 9907–000.
c. Date Filed: February 10, 1986.
d. Applicant: A. W. Brown Co., Inc.
e. Name of Project: Sunshine Power.
f. Location: On Lake Creek on Lot 8 of Block 9 in the First Addition to Lake Creek Subdivision No. 1, T19N, R21E, near Salmon in Lemhi County, Idaho.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contract Person: Albert W. Brown, 3416 Via Lido, Suite F, Newport Beach, CA 92663, (714) 673–8119.
i. Comment Date: November 20, 1986.
j. Description of Project: The proposed project would consist of: (1) The existing earthfill 10-foot-high Lake Creek diversion dam; (2) an existing 15-inch diameter, 2,300-foot-long PVC penstock; (3) a proposed powerhouse containing one generating unit with a rated capacity of 110 kW and an estimated average annual generation of 567,394 kwh; (4) a 200-foot-long, 34.5-kV transmission line to be connected to Idaho Power Company lines; and (5) appurtenant facilities The estimated cost of the project is $75,000.
k. Purpose of Project: The power produced will be sold to Idaho Power Company.
l. This notice also consists of the following standard paragraphs: A3, B, C and D1.

8 a. Type of Application: Major License (more then 5MW).
b. Project No.: 3239–001.
c. Date Filed: June 1, 1982.
d. Applicant: Puget Sound Power & Light Company and McMaster and Schroder.
e. Name of Project: Koma Kulshan.
f. Location: On Rocky, Sulphur and Sandy Creeks within Mt. Baker—Snoqualmie National Forest in Whatcom County, Washington.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(a).
h. Contact Person: Mr. W.J. Finnegan, Vice President, Engineering, Puget Sound Power & Light Company, Puget Power Building, Bellevue, WA 98009, (206) 454–6363.
i. Comment Date: October 30, 1986.
j. Description of Project: The proposed project consist of: (1) An 18-foot-high, 32-foot-long diversion structure with a crest elevation of 2,770 feet msl on Rocky Creek; (2) a 48-inch-diameter, 5,100-foot-long pipeline connecting to a common forebay; (3) a 15-foot-high, 37-foot-long diversion structure with a crest elevation of 2,755 feet msl on Sulpher Creek; (4) a 48-inch-diameter, 350-foot-long pipeline connecting to a common forebay; (5) a 15-foot-diameter, 29-foot-high common concrete forebay; (6) a 45 to 48-inch-diameter, 18,810-foot-long penstock; (7) a powerhouse containing a

generating unit with a rated capacity of 12,000 kW; and (8) a 34.5-kV, 4.5-mile-long transmission line tying into the switchyard at the Upper Baker River Development. The applicant estimates a 56 GWh average annual energy production.

The proposed project is the result of a settlement agreement filed by the applicant on June 25, 1986, and approved in part by the Commission on September 17, 1986, 36 FERC § 61299 (1986).

k. Purpose of Project: Power produced by the project would be utilized by Puget Sound Power & Light Company.

l. This notice also consists of the following standard paragraphs: B & C.

9 a. Type of Application: Declaration of Intention.

b. Project No.: EL86-32-000.

c. Date Filed: April 11, 1986.

d. Applicant: Eastern Band of Cherokee Indians and Big Cove Community Club.

e. Name of Project: Cherokee Micohydro Project Galamore Branch Site.

f. Location: On the Galamore Branch, at Big Crove Community on the Cherokee Indian Reservation, in Swain County, North Carolina.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person:

Robert S. Youngdeer, Principle Chief, The Eastern Band of Cherokee Indians, P.O. Box 455, Cherokee , NC 28719, (704) 497-2771.

Mr. Mike French, Chairman, Big Cove Community Club, Star Route, Cherokee , NC 28719, (704) 497-4771.

i. Comment Date: November 10, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 4-foot-long and 2.5-foot-high rock diversion dam; (2) a concrete intake structure, 12 feet long and 8 feet wide, containing an overflow weir, 4 feet long; (3) a 6-inch-diameter, 2500-foot-long penstock; (4) a powerhouse containing a 12 kW turbine-generator unit; (5) a short tailrace; and (6) appurtenant facilities. Applicant estimates the average annual generation to be 89,808 kWh. Project energy will be utilized entirely on site at the Cherokee Indian Reservation.

The Applicant rquests that the Commission investigate and determine if there is, pursuant to the Federal Power Act, section 23(b), federal jurisdiction for the project. The Applicant asserts that the Commission lacks jurisdiction for the following reasons: (1) Section 23(b) of the Federal Power Act does not include Indian tribes among the listed entities that are prohibited from developing water power projects without a license; and (2) the Federal Energy Regulatory Commission lacks jurisdiction over a water power project within an Indian reservation when the project is developed by the Tribe itself, and when the project is so small in scale that it is not interconnected with the interstate power grid and thus does not affect the interests of interstate commerce.

k. This notice also consists of the following standard paragraphs: B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 10040-000.

c. Date Filed: July 16, 1986.

d. Applicant: R & S Power.

e. Name of Project: Dry Creek.

f. Location: In Cache National Forest on Dry Creek in Franklin County, Idaho. Township 13S and Range 41E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Robert N. Fackrell, 119 South 2nd East, Preston, ID 83263, (208) 852-1320.

i. Comment Date: December 8, 1986.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion structure at elevation 7300 feet; (2) a 15,000-foot-long, 54-inch-diameter penstock; (3) a powerhouse containing a generating unit with a capacity of 14.0 MW and an average annual generation of 20.5 GWh; and (4) a 0.5-mile-long transmission line. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $45,000.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

11 a. Type of Application: Amendment of License (New Capacity).

b. Project No.: 2576-005.

c. Date Filed: December 27, 1985.

d. Applicant: Connecticut Light and Power Company.

e. Name of Project: Housatonic River.

f. Location: On the Housatonic River, in the towns of Kent and New Milford, Litchfield County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. J.F. Opeka, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270, (203) 665-5000.

i. Comment Date: November 10, 1986.

j. Description of Project: The project as licensed consists of four developments: Bulls Bridge, Rocky River, Shepaug, and Stevenson, all located on the Housatonic River. The existing Bulls Bridge development consists of: (1) A 120-acre reservoir impounded by two dams; (2) a canal intake structure; (3) a 2-mile-long power canal; (4) two steel penstocks, one 13-foot-diameter, 420-foot-long and the other 8-foot-diameter, 420-foot-long; and (5) a powerhouse containing six turbine-generator units with a total installed capacity of 8.3 MW.

The applicant proposes to amend the license by installing a new 11.9 MW generating unit at the Bulls Bridge development. The proposed amendment would consist of: (1) An intake structure located on the existing canal forebay; (2) a 270-foot-long, 12-foot-diameter penstock; (3) a powerhouse, located 600 feet upstream of the existing powerhouse, containing an 11.9 MW turbine-generator unit; and (4) a 600-foot-long overhead transmission line connecting to an existing switchyard.

k. Purpose of Project: The project power would be utilized by the applicant and sold to its customers.

l. This notice also consists of the following standard paragraphs: B and C.

12 a. Type of Application: Declaration of Intention.

b. Project No.: EL86-39-000.

c. Date Filed: April 25, 1986.

d. Applicant: Phillips Lake at Okaga.

e. Name of Project: Windy Creek Project.

f. Location: On Windy Creek at Okaga Lake (Phillips Lake) in Lincoln County, Montana.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person:

Clint Mills, Manager, Phillips Lake at Okaga, Route 1 (Yaak), Troy, Montana 59935, (406) 295-4003.

Mr. James E. Davis, 3960 Ortega Boulevard, Jacksonville, Florida 32210, (904) 389-3031.

i. Comment Date: November 14, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing Okaga Lake Dam, an earthen dam 35 feet high and 240 feet long; (2) the existing reservoir with a surface area of 103 acres and storage capacity of 2163 acre-feet at surface elevation 3292 feet m.s.l.; and new project facilities to include: (3) A concrete intake structure and forebay; (4) a 12-inch-diameter, 1530-foot-long penstock; (5) a powerhouse containing a 25 kW turbine-generator; (6) a 240 volt, 1700-foot-long transmission line; and (6) appurtenant facilities. Applicant estimates annual generation would be 110,000 kWh.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be

affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

k. Purpose of Project: Project energy will be utilized for private consumption at the ranch/resort on private property near the project site.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 10021–000.

c. Date Filed: June 20, 1986.

d. Applicant: Beaver City Corporation.

e. Name of Project: Beaver Water Power Project.

f. Location: On Beaver River in Beaver County, Utah: Sections 23, 24, 26, 27, 28, Township 29S, Range 6W, SLB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Honorable Robert H. Lee, Mayor, P.O. Box 271, Beaver, UT 84713.

i. Comment Date: December 1, 1986.

j. Description of Project: The proposed project would be located within the Fishlake National Forest and would consist of: (1) An intake structure in the river bank; (2) a pipeline/penstock, 24 inches in diameter and 14,000 feet long; (3) a powerhouse containing a turbine-generator unit rated at 550 kW and operating under a 419-foot head; (4) a tailrace returning flow to the river; (5) a 12.47-kV transmission line, 12,500 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,300,000 kWh. The Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

14 a. Type of Application: Minor License.

b. Project No.: 9753–000.

c. Date Filed: December 30, 1985.

d. Applicant: G. Thomas Giraud, Jr.

e. Name of Project: Prym.

f. Location: On the Five Mile River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Persons:

Mr. G. Thomas Giruad, Jr., 48 Burlington Street, Providence, RI 02906, (401) 831–4086.

Mr. Duncan S. Broatch, Summit Hydropower, P.O. Box 122, Putnam, CT 06260, (203) 928–2002.

i. Comment Date: December 1, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete-faced earth diversion dam approximately 100 feet long by 5 feet high; (2) a series of earthfill dikes totaling approximately 2,000 feet in length and heights up to 14 feet; (3) two spillways; (4) mill pond check gates; (5) four ponds designated as A, B, C, and D, with a surface area of 30 acres and a gross storage capacity of 120 acre-feet; (6) a 15-foot-high by 22.5-foot-long by 16.5-foot-wide brick powerhouse housing one rehabilitated turbine-generator unit rated at 99 kW; (7) a new 400-foot-long, 3-phase, 600 volt transmission line; and (8) appurtenant facilities. The applicant estimates an average annual generation of 511,170 kWh. The existing dam is owned by Mr. Willian Prym, Dayville, Connecticut.

k. Purpose of Project: Project power would be sold to Northeast Utilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and Dl.

15 a. Type of Application: Minor License.

b. Project No.: 9186–000.

c. Date Filed: May 10, 1985.

d. Applicant: Big Bear Regional Wastewater Agency.

e. Name of Project: Lucerne Valley.

f. Location: In an existing treated wastewater effluent outfall pipeline in section 11, T3N, R1E, and section 27, T4N, R1E near Lucerne Valley in San Bernardino County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Persons: Mr. Richard T. Anderson, P.O. Box 1028, Riverside, CA 92502, (714) 686–1450.

i. Comment Date: December 8, 1986.

j. Description of Project: The proposed project would utilize an existing treatment wastewater effluent outfall pipeline extending from applicant's wastewater treatment plant in the Big Bear Valley to applicant's reclaimed water disposal area 12 miles away in Lucerne Valley. The project would consist of a 650 kW generating unit at the lower end of an existing 16-inch section of outfall pipeline (Kaiser Station) and a 650 kW generating unit at the lower end of a new 16-inch diameter pipeline at the disposal area of applicant's outfall pipeline (Lucerne Station). The estimated average annual generation of 4,700 MWh would be sold to Southern California Edison Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and Dl.

16 a. Type of Application: Surrender of License.

b. Project No.: 6758–004.

c. Date Filed: August 26, 1986.

d. Applicant: Holden Village, Inc.

e. Name of Project: Railroad Creek.

f. Location: On Railroad Creek, tributary to Lake Chelan, in Chelan County, Washington, within the Wenatchee National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roger D. Ockfen, Holden Village, Chelan, WA 98816.

i. Comment Date: November 17, 1986.

j. Description of Project: On March 28, 1986, a license was issued to Holden Village, Inc. to construct, operate, and maintain the Railroad Creek Project No. 6758 to be located on Railroad Creek, a taributary to Lake Chelan, in Chelan County, Washington, occupying lands of the United States within the Wenatchee National Forest. The project would consist of a diversion weir, a reservoir, a fishladder, a penstock, a powerhouse containing a generating unit rated at 325 kW, a transmission line, an access road, and appurtenant facilities.

Licensee states that it has decided to surrender the license due to the high construction costs involved.

k. Any one desiring to be heard or to make any protest about this action should file a motion to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 385.211, 385.214 (1985). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 385.211 for protests. To become a party, or to participate in any hearing that might be held, a person must file a motion to intervene in accordance with the Commission'r Rules. The Commission's address is: 825 North Capital Street NE, Washington, DC 20426.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 10027–000.

c. Date Filed: July 1, 1986.

d. Applicant: Broughton Lumber Company.

e. Name of Project: Broughton.

f. Location: Partially on land administered by the U.S. Fish and Wildlife Service, on the Little White

Salmon River in Skamania County, Washington. Township 3N and Range 9E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Persons: Rees A. Stevenson, Broughton Lumber Company, Underwood, OR 98651, (509) 493–2733.

i. Comment Date: December 8, 1986.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high rock masonry dam at elevation 1275 feet; (2) A 5¼-mile long, 42-inch-diameter penstock; (3) a powerhouse containing a generating unit with a capacity of 4,500 kW and an average annual generation of 37.9 GWh; and (4) a 1½-mile-long transmission line. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $100.000.

k. Purpose of Project: The project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

18. a. Type of Application: Amendment of License.

b. Project No: 6240–004.

c. Date Filed: April 3, 1986.

d. Applicant: Watson Associates.

e. Name of Project: Watson Dam Project.

f. Location: On the Cocheco River in Strafford County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John N. Webster, Watson Associates, P.O. Box 1073, Dover, NH 03820, (207) 384–5334.

i. Comment Date: November 14, 1986.

j. Description of Project: The project as licensed consists of: (1) A concrete gravity dam, varying in height from 6 feet to 10 feet and 290 feet long; (2) a reservior having a storage capacity of 236 acre-feet, a surface area of 54 acres, and a normal water surface elevation of 119 feet m.s.l.; (3) a powerhouse containing two generating units having a total capacity of 182 kW; (4) a tailrace; (5) generator leads; and (6) appurtenant facilities. Project energy would be sold to the Public Service Company of New Hampshire.

The applicant proposes to amend the license by increasing the total licensed capacity from 182 kW to 265 kW by installing a larger unit. The applicant also proposes to install 2-foot-high flashboards.

k. This notice also consists of the following standard paragraphs: B, C, and D1.

19. a. Type of Application: Preliminary Permit.

b. Project No.: 10042–000.

c. Date Filed: July 21, 1986.

d. Applicant: Santaquin Hydro Associates.

e. Name of Project: Santaquin Hydro Associates Hydropower Project.

f. Location: Summit Creek, near Santaquin City, in Utah County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jordan Walker, Santaquin Hydro Associates, 484 East 300 North, Manti, UT 84642, (801) 835–0202.

i. Comment Date: November 14, 1986.

j. Competing Application: Project No. 10031–000, Filed: July 7, 1986.

k. Description of Project: The proposed run-of-the-river project would consist of: (1) A 5-foot-high concrete diversion dam across Summit Creek; (2) an 18-inch-diameter, 8,750-foot-long penstock; (3) a powerhouse containing two turbine-generator units with a combined rated capacity of 1,575 kW, operating under a gross head of 750 feet and a hydraulic capacity of 40 cfs, and producing an estimated annual generation of 8,136,000 kWh; and (4) a 3,000-foot-long, 12.5-kV transmission line interconnecting the project to an existing Utah Power and Light Company line. The proposed project would be located partially in the Uinta National Forest. The proposed project would be located in Sections 19 and 30, Township 10 South, Range 2 East, SLB&M, and sections 13 and 24, Township 10 South, Range 1 East, SLB&M, Utah County, Utah.

l. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,000.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, D2.

20. a. Type of Application: Exemption (5MW or less).

b. Project No: 10012–000.

c. Date Filed: June 6, 1986.

d. Applicant: Hudson Light and Power Department.

e. Name of Project: Washington Street Hydroelectric.

f. Location: Assabet River, near Hudson, in Middlesex County, Massachusetts.

g. Filed Pursuant to: Energy Security Act of 1980 section 408 (16 U.S.C. 2705 and 2708).

h. Contract Person: Mr. Horst Huehmer, Hudson Light and Power Department, 49 Forest Avenue, Hudson, MA 01743, (617) 568–5736.

i. Comment Date: November 14, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 9-foot-high, 63-foot-long dam with 1-foot-high flashboards, owned by the applicant; (2) an existing reservoir with a water surface elevation of 206 feet msl, a surface area of 16 acres and a gross storage capacity of 96 acre-feet; (3) a proposed powerhouse at the dam containing a generating unit with a rated capacity of 100 kW; and (4) a short length of transmission line tying into the applicant's existing system. The applicant estimates a 370,000 kWh average annual energy production.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D3a.

21 a. Type of Application: Preliminary Permit.

b. Project No.: 10079–000.

c. Date Filed: September 8, 1986.

d. Applicants: Adirondack Hydro Development Corporation.

e. Name of Project: Brasher Falls Hydro.

f. Location: St. Regis River, near Town of Brasher, in St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Malcolm M. Preston, President, Adirondack Hydro Development Corporation, SeaComm Plaza, Market Street, Potsdam New York 13676, (315) 265–8090.

i. Comment Date: December 5, 1986.

j. Description of Project: The proposed project would consist of: (1) A new 5-foot-high, 250-foot-long concrete dam located at Flat Rock, creating a reservoir with negligible capacity; (2) a 13-foot-diameter, 1500-foot-long steel penstock; (3) a concrete powerhouse containing two generating units with a combined rated capacity of 1500 kW at a head of 20 feet; (4) a 100-foot-long tailrace discharging back into the St. Regis River; and (5) a 500-foot-long transmission line connecting to the existing Niagara Mohawk Power Corporation line.

The estimated average annual energy production is 9.5 million kWh. The project power would be sold to Niagara Mohawk Power Corporation. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $105,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

Standard Paragraphs

A3. *Development application*—Any qualified development applicant

desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. *Development application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. *Preliminary permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed scope of studies under permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, protests, or motions to intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and service of responsive documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

D2. *Agency comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be

included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: October 7, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23029 Filed 10-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-168-000 and TC86-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 6, 1986.

Take notice that Columbia Gas Transmission Corporation (Columbia) on September 30, 1986, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2. Certain changes proposed to be effective October 8, 1986, would adjust Columbia's current sales rates to reflect the impact of the reductions in Contract Demand levels by certain wholesale customers which will become effective October 8, 1986. The affected tariff sheets are identified on Appendix A hereto. Columbia states that since the subject reductions were not contemplated at the time the settlement embodied in the Stipulation and Agreement in Docket No. TA82-1-21-000, *et al.* (PGA Settlement) was reached, and since the proposed adjustment reflects no overall increase in revenues to be recovered by Columbia, the Commission should grant the necessary waivers to permit the tariff sheets to become effective as proposed. Failure to do so will upset the delicate balance achieved by the PGA Settlement.

The other tariff sheets submitted with the filing, identified in Appendix B hereto, bear a proposed effective date of November 1, 1986 in order that they may become effective April 1, 1987, after the notice and suspension periods, in accordance with the provisions of the PGA Settlement. These tariff sheets reflect the following primary changes:

(1) Revised non-gas cost sales and transportation rates based upon a cost of service for the twelve months ended May 31, 1986, adjusted for known and measurable changes anticipated to occur on or before February 28, 1987;

(2) A change in cost classification and rate design methodology from the Seaboard formula to the modified fixed-variable method;

(3) The implementation of a mechanism to adjust rates at such time as either Columbia or its wholesale customers elect to adjust their firm sales entitlements pursuant to § 284.10 of the Commission's regulations;

(4) The reflection of Columbia's option to charge for or retain company-use and unaccounted-for quantities from transportation customers;

(5) The establishment of Seasonal Entitlements for customers under the CDS and G Rate Schedules;

(6) The establishment of supply-related curtailment procedures;

(7) The addition of provisions governing increases, reductions and conversions of contract entitlements; and

(8) The elimination of the Standby Sales Service under the CDS, G and SGS Rate Schedules which Columbia agreed to continue through March 31, 1987.

Columbia states that it does not foresee the need to impose curtailment on its system. Since Columbia does not currently have a seasonal curtailment plan, and due to the logical connection between seasonal curtailment and Seasonal Entitlements, Columbia has proposed a curtailment plan in the instant filing. It is indicated that Columbia's wholesale customers will have the benefit of knowing the potential effects of their decisions regarding Seasonal Entitlement levels. Further, Columbia states that it filed a curtailment plan at this time because consideration can be given to appropriate terms and conditions without the distractions created by the exigencies of imminent curtailment.

The curtailment plan, set out in Sheet Nos. 62 through 62E, covers both daily and seasonal curtailments for wholesale customers under the CDS and G Rate Schedules. It is indicated that SGS Rate Schedule customers are exempted from curtailment because they account for less than 1 percent of the annual sales on Columbia's system. Further, it is indicated that the curtailment plan also contains provisions covering emergencies, exemptions from curtailment, distribution of penalties, and limitations of Columbia's obligation to serve.

Columbia states that, while the filing reflects an increase in non-gas rates of approximately $71 million annually, Columbia anticipates a significant overall reduction in its sales commodity rate from the currently effective level of approximately $3.57 per Dth to approximately $2.77 per Dth as of April 1, 1977, based upon present estimates of the purchased gas cost levels to become effective April 1, 1987. Columbia also notes that, of the $71 million, $15 million is attributable to costs absorbed on an annual basis pursuant to the PGA Settlement which Columbia is permitted by the settlement to recover in its rates as of April 1, 1987 upon the filing of an abbreviated cost and revenue study. Thus, after the restoration of this amount, the instant filing reflects an increase in Columbia's non-gas rates of approximately $56 million. Based upon the nongas rates being filed and Columbia's present estimate of its PGA to be effective April 1, 1987, which Columbia will file on or before February 28, 1987, Columbia states that it projects an overall reduction in test year revenues of approximately $504.5 million below those which would result from its existing rates, assuming such rates were to be adjusted as of April 1, 1987 to recover the aforesaid $15 million.

Columbia also states that the filing is being made in order to reflect the expiration of certain provisions of the PGA Settlement; to reflect its status as an open-access transporter under Order No. 436, *et seq.*; and to improve its ability to compete with alternate fuels and other gas suppliers in the current highly competitive energy markets.

Copies of the filing were served upon Columbia's wholesale customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before October 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix A—Proposed Effective Date of October 8, 1986

Original Volume No. 1

One hundred and tenth Revised Sheet No. 16
Forty-fifth Revised Sheet No. 64

Appendix B—Proposed Effective Date of November 1, 1986

Original Volume No. 1

Fourteenth Revised Sheet No. 1
Fourth Revised Sheet No. 1A
First Revised Sheet No. 6
One hundred and eleventh Revised Sheet No. 16
Fifth Revised Sheet No. 16A2
Sixth Revised Sheet No. 17
Ninth Revised Sheet No. 18
Eleventh Revised Sheet No. 19
Seventh Revised Sheet No. 20
Original Sheet No. 20A
First Revised Sheet No. 22
First Revised Sheet Nos. 22A–22V
Original Sheet No. 22W
Fourth Revised Sheet No. 26
Fifty Revised Sheet No. 27
Eighth Revised Sheet No. 28
Eighth Revised Sheet No. 29
First Revised Sheet No. 29A
Eleventh Revised Sheet No. 30
Eighth Revised Sheet No. 31
Fourth Revised Sheet No. 39
Second Revised Sheet No. 40
Fourth Revised Sheet No. 46
Original Sheet Nos. 46A–46D
Tenth Revised Sheet No. 47
Original Sheet No. 47A1
Original Sheet No. 47A2
Third Revised Sheet No. 52
First Revised Sheet No. 53
First Revised Sheet No. 54
Original Sheet No. 54A
Original Sheet No. 54B
Third Revised Sheet No. 55
Original Sheet No. 55A
Second Revised Sheet No. 56
Third Revised Sheet No. 57
Third Revised Sheet No. 58
Original Sheet No. 58A
Third Revised Sheet No. 60
Third Revised Sheet No. 61
Tenth Revised Sheet No. 62
First Revised Sheet No. 62A
Original Sheet Nos. 62B–62E
Sixth Revised Sheet No. 63
Third Revised Sheet No. 63A
Original Sheet No. 63B
Original Sheet No. 63C
Third Revised Sheet No. 66
Original Sheet No. 66A
Third Revised Sheet No. 69
Original Sheet Nos. 69A–69C
Fourth Revised Sheet No. 70
Original Sheet No. 70A
First Revised Sheet Nos. 72J–72Q
Original Sheet Nos. 89–89F

Original Volume No. 2

Ninth Revised Sheet No. 693

[FR Doc. 86–23030 Filed 10–9–86; 8:45 am]
BILLLING CODE 6717-01-M

[Docket No. TA87–1–29–000, 001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 6, 1986.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on October 1, 1986, the following proposed tariff sheets to Second Revised Volume No. 1 of its FERC gas tariff:

Second Revised Volume No. 1

Forty-Fourth Revised Sheet No. 12
Forty-Second Revised Sheet No. 15
Fourth Revised Sheet No. 15–A

The proposed tariff sheets reflect an overall rate increase of 66.4¢ per dt in the commodity charge under the CD, PS, ACQ and S–2 Rate Schedules, an increase of 66.8¢ per dt in the commodity charge under the G, OG and E Rate Schedules, and an increase of 12¢ per dt in the demand charge under the CD Rate Schedule.

The increase of 66.4¢ per dt in commodity charges under the CD, PS, ACQ and S–2 Rate Schedules is comprised of 63.1¢ per dt increase related to the current gas cost portion of commodity rates, and a 3.3¢ per dt increase in the Deferred Adjustment. The increase in the G, OG and E commodity rates of 66.8¢ per dt is comprised of the aforementioned increases related to current and deferred gas cost plus 0.4¢ per dt representing the effect of the 12¢ per dt demand cost increase converted at 100% load factor. The increase in the CD demand charge in the result of restoring the full demand cost associated with the pass through on an as-billed basis of demand charges of a Canadian supplier, Sulpetro Limited, which demand costs had been reduced to 75% of the as-billed demand costs in Transco's rates as of May 1, 1986 by filing dated May 14, 1986 in Docket No. TA86–5–29–003.

A. Summary of Filing

Transco states that the instance PGA filing represents an undertaking on Transco's part to continue—as it has for the 1986 summer period—its merchant function activities consistent with the spirit and intent of the Offer of Settlement pending Commission action in Docket Nos. TA85–1–29–000, *et al.* To do so, however, requires an accommodation between the current gas cost rate of $2.90 per dt projected in the filing which would result from system gas purchases needed to serve only a relatively low level of projected customer purchases, and the lower PGA rate (a ceiling of $2.30 per dt) which Transco is committed to implement under the pending settlement in consideration for, among other things, best efforts purchase commitments on the customers' part during the settlement's nine-month transition period ending March 31, 1987. To effectuate this accommodation, Transco proposes to place into effect rates based upon the $2.90 per dt gas cost supported in the manner required by the PGA regulations, and to further request that the Commission waive the regulations with respect to Account No. 191, Unrecovered Purchased Gas Costs, in order to permit Transco to flow through to customers (via a credit to its commodity billings) specific gas cost savings attributable to increments of purchases by customers in excess of the approximately 45% load factor level of system sales upon which the $2.90 per dt PGA rate is based. Accordingly, for example, under this crediting mechanism a customer which purchased at a 75% load factor would achieve a resulting gas cost component of $2.30 per dt, and thus would have the opportunity, based on its own

purchasing decisions, to secure the bargain struck in the pending settlement.

B. Pertinent Background and Description of Gas Cost Savings Crediting Mechanism

Transco states that it began its efforts to resolve on a long-term basis the contract obligations with its producers on a market-responsive basis at approximately the same time (late 1985 and early 1986) that Order No. 436 settlement negotiations commenced with its customer community, interested parties, and the Commission's Staff. These two sets of negotiations have proceeded along roughly parallel tracks since that time; settlements have been executed or agreed to in principle with producers covering a large majority of the deliverability on Transco's system, while during the same period the comprehensive Order No. 436 settlement agreement with the customer community, interested parties and Staff was filed on May 13, 1986. The agreements with Transco's producers provide for, among other things, market responsive pricing provisions and reasonable take-or-pay levels coupled with reasonable maximum deliverability limits. During the current transition period, these pricing provisions generally provide for an obligation by Transco to assure the producer a specific annual revenue stream. These transition period revenue commitments were, in turn, predicated upon agreed upon levels of customer best efforts purchase commitments as set forth in the Order No. 436 settlement agreement. Under this basic approach, the annual revenue commitment to producers is fixed, such that the unit gas price necessary to achieve such level will vary in inverse relationship to the level of takes which can be achieved. These parallel settlements with producers and customers were intended to operate in tandem and thus provide the balance between market-responsive pricing and minimum take commitments both by the pipeline and its customers. The Order No. 436 settlement is yet to be approved by the Commission; nevertheless, as a demonstration of good faith during the intervening months, Transco has voluntarily accepted the risk of under-collection of its gas costs by including in its rates the $2.30 per dt gas cost provided in the pending Order No. 436 settlement.

Transco states that in the absence of Commission action on the pending Order No. 436 settlement, the gas cost savings crediting mechanism proposed will meet the objectives of the settlements both with Transco's producers and with its customers. The mechanism described is intended to return the marginal benefits under the producer settlements to those customers which enable Transco to realize such gas cost savings. Transco submits that this crediting mechanism will provide, in the absence of an approved Order No. 436 settlement, that which the customers bargained for—namely, supplies during the first year at $2.30 per dt, and that which the settling producers bargained for—a predetermined annual cash flow during the transition period.

1. Operation of the Crediting Mechanism

- The crediting mechanism is designed to *guarantee* customer gas cost savings credits for purchases at load factors in excess of threshold levels. Transco accepts the risk that such gas cost savings may in fact not be achieved on a system-wide basis, and therefore will accept a condition that it not include any underrecoveries of such guaranteed credits in its Account No. 191.

- The threshold load factor for CD customers is based upon the anticipated system sales level in the absence of "best efforts" purchase commitments, namely, 45% load factor. G and OG customers' thresholds are based on a percentage, also 45%, of last winter's sales and transportation quantities.

- Guaranteed credits in increasing amounts at various 5% purchase increments over the threshold are provided. Each month a customer will receive a credit, shown as a "gas cost savings credit" on the monthly commodity billing invoice, to the extent that purchases exceed the threshold level.

- This procedure will be repeated each month on a cumulative basis; for example, if a customer purchased at 75% load factor in November (and received credits down to the $2.30 per dt level for that month) and then purchased at only 55% load factor in December—and thus at 65% load factor for the two month period—such customer's December billing credit would be based upon the credit due for the two months at 65% load factor *less* the credit already reflected for November's billing. Conversely, if this customer's December load factor increased to 95%, its December billing credit would be computed on an 85% load factor for the two months *less* the credit already reflected on November's billing.

2. Accounting Procedures

- A separate subaccount of Account No. 191 (Unrecovered Purchased Gas Costs) pertaining to the period will be maintained in the normal manner with deferrals computed on the $2.90 per dt Commodity Base Purchased Cost of Gas. Prior period adjustments attributable to periods before November (normally rolled in with current gas costs) will be kept separate in the deferred account for recovery in a subsequent PGA filing.

- Such account will be debited with actual "gas cost savings credits" made for each refund month. As noted above, these amounts will appear as a credit to the commodity billing invoice.

- A final accounting for this PGA period will be made no later than July 31, 1987. At such time any remaining actual gas cost savings in excess of "gas cost savings credits" would be directly refunded to all customers ratably on the basis of total sales for the period. To the extent such "gas cost savings credits" exceed the actual amounts of gas cost savings such excess will be debited to other gas supply excesses, *i.e.*, Transco will be "at risk" and thus its shareholders will absorb any such amounts.

C. Sulpetro Issue

In its order of October 31, 1984 in Docket No. TA85–1–29, *et al.*, the Commission set for hearing the issue of the manner in which costs of Transco's import purchases from Sulpetro Limited are flowed through in Transco's rates. In its three subsequent PGA filings in Docket No. TA85–3–29, Docket No. TA86–1–29 and Docket No. TA86–5–29 and in the instant filing, Transco has reflected such costs in the same manner as in the TA85–1–29 proceeding, *i.e.*, on an as-billed basis. On September 3, 1985 an Initial Decision was issued in Docket No. TA85–1–29 concerning the flow-through of Canadian costs and the matter is pending before the Commission on exceptions. Additionally, the pending offer of settlement in Docket Nos. TA85–1–29–000, *et al.*, if approved, would provide for resolution of this issue as of the effective date of any order therein. Transco states that it agrees to be bound in the instant proceeding by the final resolution of the Sulpetro issue, whether by the pending litigation or the pending settlement.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers and interested state commissions, in accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main office at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426; in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 14, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23032 Filed 10-9-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 12, 1986 Through September 19, 1986

During the Week of September 12, 1986 through September 19, 1986, the applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 2, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 12, 1986 through September 19, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 15, 1986	Idaho Petroleum, Inc., Lewiston, ID	KEE-0072	Exception to the reporting requirements. If granted: Idaho Petroleum, Inc. would no longer be required to file form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Do	Reinauer Petroleum Co., Washington, DC	KRZ-0045	Interlocutory. If granted: The Office of Hearings and Appeals would issue a final determination to Reinauer Petroleum Company. This decision would be based on information submitted by the Economic Regulatory Administration pursuant to our September 4, 1984 Decision and Order remanding the Proposed Remedial Order (Case No. HRO-0105) to the Economic Regulatory Administration.
Sept. 18, 1986	Coline, National Helium, Palo Pinto, Belridge, Perry Gas, Hartford, CT.	RM2-39, RM3-40, RM5-41, RM8-42, RM183-43	Request for modification/rescission in the Coline, National Helium, Palo Pinto, Belridge and Perry Gas Second Stage Refund Proceedings. If granted: The February 20, 1986, Decision and Order (Case Nos. RQ2-239, RQ3-240, RQ5-241, RQ8-242, RQ183-243) issued to Connecticut would be modified regarding the state's application for refund submitted in the Coline, National Helium, Palo Pinto, Belridge & Perry Gas refund proceedings.
Do	E.E. Tullos, Groveton, TX	KEE-0073	Exception to the reporting requirements. If granted: E.E. Tullos would no longer be required to file form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Sept. 19, 1986	City of Long Beach, California, Washington, DC	KEF-0078	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V in connection with the June 6, 1983 Decision and Order (Case No. BXE-0341) issued to City of Long Beach, California.
DO	Liberty Trading Co., Washington, DC	KEF-0079	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the July 22, 1986, Consent Order entered into with Liberty Trading Company.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 12, 1986 to Sept. 19, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
9/15/86	Quaker State/Harbron Oil Co., Inc.	RF213-214
9/15/86	Conoco/BTV Energy Corp	RF220-400
9/15/86	Petrolane/BTV Energy Corp	RF208-8
9/15/86	U.S.A./Lyman Oil Co., Inc	RF252-9
9/15/86	Camas Prairie Railroad Co	RF270-33
9/15/86	Francis Jay McMillin, Inc	RF270-32
9/15/86	Hunsaker Truck Lease, Inc	RF270-31
9/15/86	Metropolitan Transit Commission.	RF270-30
9/15/86	Camas Prarie Railroad Company.	RF271-7
9/15/86	Amoco/Florida	RF251-327
9/18/86	Aminoil/Progas, Inc	RF139-158
9/15/86	U.S.A./NGL Supply, Inc	RF252-8
9/15/86	Pride/NGL Supply, Inc	RF235-20
9/15/86	Conoco/NGL Supply, Inc	RF220-399
9/15/86	Petroleum/NGL Supply, Inc	RF208-7
9/15/86	Saber/NGL Supply, Inc	RF192-21
9/15/86	NAPCO/NGL Supply, Inc	RF108-20
9/15/86	J.M. Huber/Supply, Inc	RF64-3
9/15/86	Gulf/Greenville County, S.C	RF40-3385
9/15/86	Gulf/NGL Supply, Inc	RF40-3384
9/15/86	Marion/NGL Supply, Inc	RF37-18

REFUND APPLICATIONS RECEIVED—Continued

[Week of Sept. 12, 1986 to Sept. 19, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
9/15/86	Sid Richardson/NGL Supply, Inc.	RF26-52
9/15/86	Tenneco/NGL Supply, Inc	RF7-143
9/16/86	Ligon Specialized Hauler, Inc	RF270-34
9/16/86	White Star Bus Line	RF270-35
9/16/86	Green Field Transport Co., Inc	RF270-36
9/17/86	Metz Baking Company	RF270-46
9/17/86	Wayne Daniel Truck, Inc	RF270-45
9/19/86	Tom Ottery Transit, Inc	RF270-44
9/19/86	Morgan Trucking Co., Inc	RF270-43
9/19/86	Ken Lystad	RF261-3
9/18/86	Gibbs/Harold's Service Station, Inc.	RF262-1
9/17/86	Gulf/M M Fowler, Inc	RF40-3390
9/17/86	Gulf/JLC Gulf	RF40-3389
9/17/86	Gulf/MacCallum Gulf	RF40-3388
9/17/86	Gulf/Roo's	RF40-3387
9/17/86	Conoco/Dallas Oil Co	RF220-404
9/18/86	Conoco/Combling-Miller Co	RF220-403
9/18/86	Lake Oasis Truck Stop	RF220-401 RF220-402
9/18/86	Maier's Bakery	RF270-42
9/18/86	Sonic Trucking and Sales, Inc	RF270-41
9/16/86	Malone Freight Lines, Inc	RF270-40

REFUND APPLICATIONS RECEIVED—Continued

[Week of Sept. 12, 1986 to Sept. 19, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
9/18/86	Fort Wayne Public Transportation Corporation.	RF272-4
9/17/86	Gulf/city of Mobile, Alabama	RF40-3391
9/19/86	Quaker State/Sellers Oil Company, Inc.	RF213-215
9/15/86	Parr Trucking Service, Inc	RF270-29
9/15/86	Oglebay Norton Company	RF271-6
9/17/86	Butter Krust Bakery	RF270-37
9/17/86	Hargrave Distributing Co., Inc	RF270-38
9/17/86	Metrolina Express, Inc	RF270-39
9/17/86	Gull/Richard and Vivian Russell	RF258-4
9/17/86	Wellen/Fran Beckman	RF247-2
9/17/86	Eastern NJ/Dwight Manor Apartments, Inc.	RF232-422
9/17/86	Sid Richardson/Graversen, Inc	RF26-53
9/16/86	Gulf/T.A.M. Car Wash, Inc	RF40-3386
9/15/86 to 9/19/86	Marathon Refund Applications	RF250-1317 to RF250-1367
9/15/86 to 9/19/86	Mobil Refund Applications	RF225-10238 to RF225-10253

[FR Doc. 86-22998 Filed 10-9-86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of September 15 Through September 29, 1986

During the week of September 15 through September 19, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 2, 1986.

Reserve Petroleum Company, Pittsburgh, Pennsylvania, Kee–0043, Reporting Requirements

Reserve Petroleum Company filed an Application for Exception from the provisions of the Form EIA–782B, Form EIA–194, Form EIA–811, and Form EIA–821 reporting requirements. The exception request, if granted, would exempt Reserve Petroleum Company from filing Form EIA–782B, EIA–194, and EIA–811 on a monthly basis and from filing Form EIA–821 on an annual basis. On September 18, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86–22999 Filed 10–9–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3093–4]

Environmental Impact statements; Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed September 29, 1986 Through October 3, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860403, Draft, COE, WY, Deer Creek Dam and Reservoir Municipal Water Supply Project, Permit, North Platte River, Natrona and Converse Counties, Due: November 24, 1986, Contact: Steven West, (402) 221–3900.

EIS No. 860404, Final, BLM, NM, Carlsbad Resource Area, Resource Management Plan, Due: November 10, 1986, Contact: Charles Dahlen, (505) 887–6544.

EIS No. 860405, Final, AFS, AZ, Canyon Uranium Mining Development, Kaibab National Forest, Approval, Coconino County, Due: November 10, 1986, Contact: Dennis Lund, (602) 635–2681.

EIS No. 860406, Final, FAA, CO, Stapleton International Airport Runway Expansion, Approval, Denver County, Due: November 10, 1986, Contact: Robert Bielek (303) 340–5546.

EIS No. 860407, Final, BLM, NM, Southern Rio Grande Plan, State Land Exchange and Dona Ana County Land Tenure Adjustments, Dona Ana County, Due: November 10, 1986, Contact: Marvin James (505) 525–8228.

EIS No. 860408, Report, COE, KY, WV, Tug Fork Valley Flood Damage Reduction Plan, West Williamson Structural Project, Modifications and/or Refinements, Tug Fork River, Contact: John Wright (513) 684–3077.

EIS No. 860409, Draft, FHW, AL, Corridor "X" Highway Construction, Walker/Jefferson County Line to US 31, Birmingham Metropolitan Area, Jefferson County, Due: November 24, 1986, Contact: Joe Wilkerson (205) 832–7370.

EIS No. 860410, Draft, COE, IL, MO, Mississippi River Locks and Dam 26 Replacement, Second Lock Construction, Upper Mississippi and Illinois Rivers, Due: November 24, 1986, Contact: Daniel Ragland (314) 263–5711.

EIS No. 860411, Final, SCS, OK, Dry Creek Watershed Protection and Flood Prevention Plan, Lincoln County, Due: November 10, 1986, Contact: Roland Willis (405) 624–4360.

EIS No. 860412, Final, SCS, LA, Upper Vermilion Bayou Watershed Protection, Flood Prevention and Drainage Plan, Due: November 10, 1986, Contact: Horace Austin (318) 473–7751.

Amended Notice

EIS No. 860296, Draft, SCS, PA, West Branch Brandywine Creek Watershed Protection and Flood Prevention Plan, Chester and Lancaster Counties, Due: October 17, 1986, Published FR 8–1–86—Review period extended.

Dated: October 7, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–23070 Filed 10–9–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3093–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 22, 1986 through September 26, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clear Air Act and setion 102(2)(c) of the National Enviornmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated February 7, 1986 (51 FR 4804).

Drafts EISs

ERP No. DS–AFS–K65072–CA, Rating E02, Pacific Southwest Region Nat'l Forests, Mgmt. of Vegettaion for Reforestation, CA. Summary: EPA expressed environmental objections because the supplemental draft EIS did not: (1) Adequately address cumulative impacts to water quality and beneificial uses that could result from vegettion management with herbicides; and (2) clearly identify the relationship of the vegetation management program to individual Forest Planning EISs or the process used to determine when, and how, specific sites would be treated with herbicides. EPA expressed its willingness to meet with Forest Service officials to discuss its objections on the EIS Supplement.

ERP No. D–BLM–J67006–CO, Rating EC2, Wolf Ridge Nahcolite Solution

Mine, Construction and Operation, Piceance Basin, CO. Summary: EPA has environmental concerns with the proposed action regarding ground and surface water protection and requests that additional information regarding injection well abandonment is needed in the final EIS. EPA also requests that BLM's final EIS analysis regarding groundwater protection be coordinated with EPA's proposed issuance of a Class III underground injection control (UIC) permit under the Sate Drinking Water Act.

ERP No. D–COE–G30011–LA, Rating EU2, W. Bank of Mississippi River Hurricane Surge Protection, New Orleans Vicinity, LA. Summary: EPA has recently concluded a Sect. 404(c) restriction within the Bayou aux Carpes site to prevent the type of degradation that would be caused by the Tentatively Selected Plan (TSP). Due to the 404(c) restriction and the availibility of alternative plans, EPA believes that an adequate cse has not been established by the EIS to support an unprecendented request for Congress to exempt those portions of the Bayou aux Carpes site (pursuant to 404(r) Clean Water Act (CWA)) that are within the projet area from the requirements of Sect. 404 CWA. The EIS should include additional informtion and impact assessment with regards to noise, mitigation, and archeological and historical resources. This EIS is a possible candidate for referral to the Council on Envionmental Quality (CEQ) unless a satisfactory agreement is reached on the significant unresolved issues.

ERP No. D–FHW–D40219–VA, Rating EC2, VA–125/Danville Expressway Construction, US 58 to US 29, VA. Summary: EPA is concerned that the draft EIS does not incorporate a thorough analysis of all the alternatives considerd, prior to selection of the two build alternatives, and reasons for their elimination. The final EIS should investigate further the imports on: land use planning, the biota/habitat of the project area, and the local ground regarding the air and noise monitoring of the area.

ERP No. D–USA–A21033–00, Rating EC2, Continental United States Unitary Lethal Chemical Agencts and Munitions Stockpile Disposal Program, Destruction and Implementation, US. Summary: EPA is concerned about the lack of description of maintaining systems in the draft EIS and the large uncertainty in the risk analysis. EPA recommended that the Army provide more informtion on monitoring, take steps to reduce the uncetainty in the risk assessment, use the risk assessment to select the environmentally preferable alternative, and improve the readability of the final EIS.

Final EISs

ERP No. F–FHW–D40080–VA, East-West Expressway Construction, VA–17/143 Jefferson Ave. in Newport News to Armistead Ave. in Hampton, VA. Summary: EPA expressed concern about the method used to compare alternatives, although it did not object to the development of the project as proposed.

Regulations

ERP No. R–OSM–A99173–00, 30 CFR Parts 773 and 843, Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program Permitting Process (51 FR 25822). Summary: EPA has not objections to the proposed rule to amend the coal mining permitting process. EPA recommends additional language to require compliance with existing environmental laws and regulations.

Amended Notice.

The following review should have appeared in the FR Notice published on September 26, 1986.

ERP No. F–AFS–J82006–MT, Kootenai Nat'l Forest Noxious Weed Treatment Program, MT. Summary: EPA is satisfied that the final EIS has adequately addressed concerns expressed regarding the draft EIS and Plan.

Dated: October 7, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–23071 Filed 10–9–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3082–4]

Environmental Impact Statements; Availability

Correction

In FR Doc. 86–21314 appearing on page 33297 in the issue of Friday, September 19, 1986, make the following corrections: In the first column, in paragraph "*EIS No. 860370*", in the first line, "DOE" should read "COE"; and in the third line, "Indiana" should read "Indian".

BILLING CODE 1505–01–M

[OPP–50662; FRL–3083–2]

Issuance of Experimental Use Permits

Correction

In FR Doc. 86–21253, beginning on page 33923, in the issue of Wednesday, September 24, 1986, make the following corrections:

On page 33923, in column two, under **SUPPLEMENTARY INFORMATION,** first complete paragraph, in the first line, "EUO" should read "EUP" and in the same paragraph, sixteenth line, "April 1987" should read "April 10, 1987".

On the same page, third column, in the first complete paragraph, in the seventh line, insert "cis-" before the first "3".

BILLING CODE 1505–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities Under OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Contract and Procurement Information Requirements (OMB No. 3064–0072).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget Standard Form 83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary (Administration) Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before October 27, 1986.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submmission should be sent to Jon Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898–3810.

SUMMARY: The FDIC is requesting OMB approval to extend, for a three-year period, the expiration date of the information collection required by the FDIC in conducting its procurement activities. The information collection is imposed on vendors and contractors who wish to do business with the FDIC. The information is used to evaluate bids

and proposals from offerors, to award contracts, and to make purchases of goods and services in support of FDIC's mission. It is also used for contract monitoring. It is estimated that this collection of information creates a total annual burden of 2250 hours on the respondents collectively.

Dated: October 2, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-22970 Filed 10-9-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-010050-006.

Title: U.S. Flag-Far East Discussion Agreement.

Parties:

American President Lines, Ltd.
Lykes Bros. Steamship Co., Inc.
Sea-Land Service, Inc.
United States Lines, Inc.
Waterman Steamship Corporation

Synopsis: The proposed amendment would expand the scope of the agreement to include countries in Southwest Asia from the Suez Canal to Burma, inclusive, Sri Lanka and Africa on the Red Sea and Gulf of Aden.

Agreement No.: 204-010064-011.

Title: U.S. Gulf/Colombia Equal Access Agreement.

Parties:

Flota Mercante Grancolombiana, S.A.
Lykes Bros. Steamship Co., Inc.
Crowley Caribbean Transport, Inc.
CTMT, Inc.
New York Navigation Company, Inc.
O S & L of Louisiana, Inc.

Synopsis: The proposed amendment reflects the deletion of Coordinated Caribbean Transport, Inc. and the addition of Crowley Caribbean Transport, Inc. as parties to the agreement.

Agreement No.: 204-010066-010.

Title: United States Atlantic & Pacific/Colombia Equal Access Agreement.

Parties:

Flota Mercante Grancolombiana, S.A.
United States Lines (S.A.) Inc.
Crowley Caribbean Transport, Inc.
CTMT, Inc.

Synopsis: The proposed amendment reflects the deletion of Coordinated Caribbean Transport, Inc. and the addition of Crowley Caribbean Transport, Inc. as parties to the agreement.

Dated: October 7, 1986.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-23048 Filed 10-09-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Atlanta National Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 31, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Atlanta National Corporation,* Atlanta, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Atlanta National Bank, Atlanta, New York.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banco Harlan, Inc.,* Harlan, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Harlan, Harlan, Kentucky.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Parish National Corporation of St. Tammany, Inc.,* Bogalusa, Louisiana; to become a bank holding company by acquiring Parish National Bank of St. Tammany, Slidell, Louisiana.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Northbrook Bancorp., Inc.,* Northbrook, Illinois; to merge with First Cary-Grove, Corp., Cary, Illinois, and thereby indirectly acquiring First Security Bank of Cary-Grove, Cary, Illinois.

2. *Gary-Wheaton Corporation,* Wheaton, Illinois; to acquire 80 percent of the voting shares of Ogden-Saratoga Corporation, Downers Grove, Illinois, thereby indirectly acquiring First Security Bank of Downers Grove, Downers Grove, Illinois.

3. *Longview Capital Corporation,* Newman, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Ogden, Ogden, Illinois.

4. *St. Joseph Bancorporation, Inc.,* South Bend, Indiana; to merge with Starke County Bancorp, Inc., Knox, Indiana, and thereby indirectly acquiring Farmers Bank and Trust Company, Knox, Indiana.

5. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of American State Bancorp, Sheridan, Indiana, and thereby indirectly acquiring American State Bank of Sheridan, Sheridan, Indiana.

E. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Rogers Bancshares, Inc.,* Little Rock, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Metropolitan National Bancshares, Inc., Little Rock, Arkansas, and thereby

indirectly acquire Metropolitan National Bank, Little Rock, Arkansas.

2. *State Bancorp, Inc.*, Washington, Indiana; to acquire 100 percent of the voting shares of The Bank of Mitchell, Mitchell, Indiana.

F. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Midstate Bancorp*, Hinton, Oklahoma; to become a bank holding company by acquiring 82 percent of the voting shares of First State Bank, Hinton, Oklahoma.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelars, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Western Bancshares of Clovis, Inc., Clovis, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of Western Bank of Clovis, Clovis, New Mexico.

2. *Crokett County National Bankshares, Inc.*, Ozona, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Crockett County National Bank, Ozona, Texas.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Baker Boyer Bancorp*, Walla Walla, Washington; to become a bank holding company be acquiring 100 percent of the voting shares of The Baker-Boyer National Bank of Walla Walla, Walla Walla, Washington, and Bank of Commerce, Milton-Freewater, Oregon.

2. *Maui Bancshares, Inc.*, Tacoma, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Maui, National Association, Kahului, Maui, Hawaii.

Board of Governors of the Federal Reserve System, October 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–23064 Filed 10–9–86; 8:45 am]

BILLING CODE 6201-01-M

Banc One Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted througout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 28, 1986.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to acquire 100 percent of the voting shares of American Fletcher Corporation, Indianapolis, Indiana, and thereby indirectly acquire American Fletcher National Bank and Trust Company, Indianapolis, Indiana; Union Bank and Trust Company, Franklin, Indiana; Carmel Bank and Trust Company, Carmel, Indiana; First American National Bancorp, Plainfield, Indiana, and thereby acquire First American National Bank, Plainfield, Indiana; and Citizens Northern Company, Elkhart, Indiana, and thereby indirectly acquire Citizens Northern Bank of Elkhart, Elkhart, Indiana.

In connection with this application, Applicant also proposes to acquire American Fletcher Mortgage Company, Inc., Indianapolis, Indiana, and thereby engage in mortgage lending, equity financing, and related real estate financing activities, and also in mortgage servicing for unaffiliated parties pursuant to §§ 225.25(b)(1) and 225(14) of the Board's Regulation Y; American Fletcher Financial Services, Inc., Marion, Indiana, and thereby engage in consumer lending as well as in the sale of credit-related insurance in connection with its extensions of credit pursuant to § 225.25(b)(1) and (8) of the Board's Regulation Y; Tecumseh Insurance Agency, Marion, Indiana, and thereby engage in credit reinsurance underwriting pursuant to § 225.25(b)(9) of the Board's Regulation Y; Guardian Insurance Agency, Marion, Indiana, and thereby engage in the sale certain credit-related insurance in connection with extensions of credit by American Fletcher Financial Services, Inc., the sale of fidelity insurance to American Fletcher Financial Services, Inc., and the sale of credit-related casualty insurance pursuant to section 4(c)(8)(D) of the BHC Act; and also American Fletcher Financial Corporation, Indianapolis, Indiana, an inactive subsidiary of American Corporation.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of America Bank Corporation*, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of First of America Bancorporation-Illinois, Inc., Kalamazoo, Michigan. First of America Bancorporation-Illinois, Inc., Kalamazoo, Michigan, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Premier Bancorporation, Inc., Libertyville, Illinois, and thereby indirectly acquire Grayslake National Bank, Grayslake, Illinois; Libertyville National Bank, Libertyville, Illinois; First National Bank of Mundelein, Mundelein, Illinois; Golf Mill State Bank, Niles, Illinois; Premier Bank of Vernon Hills, Vernon Hills, Illinois; and Zion State Bank & Trust Company, Zion, Illinois.

In connection with this application, Applicants also propose to acquire Premier Life Insurance Company, Libertyville, Illinois, and thereby engage in underwriting credit life, accident and health insurance that is directly related to extensions of credit pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in Northern Cook and Lake counties in Illinois.

Board of Governors of the Federal Reserve System, October 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23065 Filed 10-9-86; 8:45 am]

BILLING CODE 6210-01-M

First Illinois Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 25, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Illinois Corporation*, Evanston, Illinois; to engage *de novo* through its subsidiary, First Illinois Mortgage Corporation, Evanston, Illinois, in mortgage banking activities, pursuant to section 22525. (b)(1) of the Board's Regulation Y.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City Missouri 64198:

1. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to engage *de novo* through its subsidiary, Express Life Insurance Company, Lawton, Oklahoma, in originating and purchasing mortgage loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. Applicant, through company will engage in underwriting credit life and accident and health insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23066 Filed 10-9-86; 8:45 am]

BILLING CODE 6210-01-M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Change in Meeting Site

There is a change in the meeting site for the first day of the Depository Library Council to the Public Printer. The October 15 session will be held in the Lewis and Clark Ballroom of the Holiday Inn-Capitol, 6th and C Streets SW., Washington, DC, instead of meeting at the Government Printing Office, Harding Hall.

This pertains only to the October 15 session. The October 16-17 meetings will be held in the Mumford Room, Madison Building, Library of Congress as scheduled.

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

Ralph E. Kennickell, Jr.,

Public Printer.

[FR Doc. 86-23068 Filed 10-9-86; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 3, 1986.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages)

Food and Drug Administration

Subject: Foreign Language Disclosure Labeling—Existing Collection
Respondents: Businesses or other for-profit
Subject: Declaration of Net Quantity—Existing Collection
Respondents: Businesses or other for-profit

Health Resources Service Administration

Subject: Health Profession Student Loan Program—Loan Information Disclosure Requirements—NEW—
Respondents: Non-profit institutions
OMB Desk Officer: Bruce Artim

Office of the Secretary

(Call Reports Clearance Officer on 202-245-6511 for copies of package)
Subject: Acknowledgement of Receipt of Public Service announcement—NEW—
Respondents: Businesses or other for-profit
OMB Desk Officer: Judy A. McIntosh

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of package)
Subject: Negative Case Action review Schedule/Action Summary Tables (Medicaid Eligibility Quality Control)—Revision—(0938-0300) HCFA-6401
Respondents: State or local governments
Subject: Medicare—Pro Reporting Forms—NEW—
Respondents: Businesses or other for-profit
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Head Start Program Performance Standards Plans—Reinstatement—(0980-0128)
Respondents: Non-profit institutions
OMB Desk Officer: Judy A. McIntosh

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed

information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch New Executive Office Building, Room 3208 Washington, DC 20503.

ATTN: [name of OMB Desk Officer]

Dated: October 6, 1986.

Harry A. Hadd,

Acting Deputy Assistant Secretary for Management, Analysis and Systems.

[FR Doc. 86-22976 Filed 10-9-86; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 86F-3064]

Pfizer Central Research, Pfizer, Inc.; Filing of Food Additive Petition

Correction

In FR Doc. 86-21890, appearing on page 34503, in the issue of Monday, September 29, 1986, make the following correction:

On page 34503, under **SUPPLEMENTARY INFORMATION**, in the third column, in the eleventh line, the third "2," should be removed.

BILLING CODE 1505-01-M

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting, Board of Scientific Counselors, Division of Cancer Treatment

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, October 16-17, 1986, Building 31, 6th Floor, "C" Wing, Conference Room 6, Bethesda, Maryland 20892, which was published in the **Federal Register** on September 16 (51 FR 32848).

The Board was to have been open to the public from 8:30 a.m., October 16, through 12:45 p.m., October 17. It is now necessary to close a portion of this meeting for the review of the site visit regarding our protocol review procedures.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 16, 1986, from 6:00 p.m. to 6:30 p.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 30, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-22962 Filed 10-9-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the Board of Scientific Counselors, NICHD

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 5, 1986, in Building 31, Room 2A52. This meeting will be open to the public from 9:00 a.m. to 12 noon on December 5, for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 5 from 1:00 p.m. to 4:30 p.m. for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Board members. Dr. Arthur Levine, Scientific Director, NICHD, Building 31, Room 2A50, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-2133, will furnish substantive program information.

Dated: September 29, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-22963 Filed 10-9-86; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meeting of Board of Scientific Counselors, NLM

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, November 17 and 18, 1986, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to 4:00 p.m. on November 17, 1986, and from 9:00 a.m. to approximately 12:00 Noon November 18, 1986, for the review of research and development programs of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available.

In accordance with the provision set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 17, from approximately 4:00 p.m. to 5:00 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Daniel R. Masys, Director, Lister Hill Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496-4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: September 29, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-22964 Filed 10-9-86; 8:5 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Chemicals (8) Nominated for Toxicological Studies; Request for Comments

SUMMARY: On September 16, 1986, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review eight chemicals nominated for toxicology studies and to recommend the types of studies to be performed. With this notice, the NTP solicits public comments on the eight chemicals listed herein.

FOR FURTHER INFORMATION CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-3611.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical

Evaluation Committee (CEC) are published with request for comment in the **Federal Register.** This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP ot make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response to this request are reviewed and summarized by NTP technical staff, are forwarded to the NTP Board of Scientific Counselors for use in their evaluation of the nominated chemicals, and then to the NTP Executive Committee for its decision-making. The NTP chemical selection process is summarized in the **Federal Register,** April 14, 1981 (46 FR 21828), and also in the NTP FY 1985 *Annual Plan,* pages 201–202.

On September 16, 1986, the CEC met to evaluate eight chemicals nominated to the NTP for toxicological studies. The following table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the CEC at the meeting.

Chemical	CAS No.	Committee recommendation(s)
1. Chlordiazepoxide.	58-25-3	No testing.
2. Clorazepate	23887-31-2	No testing.
3. Diazepam	439-14-5	—Carcinogenicity in mice —Prechronic studies should include sperm morphology testing.
4. Flurazepam	17617-23-1	—Carcinogenicity in mice and rats —Prechronic studies should include sperm morphology testing —Fertility assessment by ontinuous breeding studies —Teratology studies
5. Oxazepam	604-75-1	—Carcinogenicity in mice —Prechronic studies should include sperm morphology testing —Fertility assessment by continuous breeding.
6. o-Aminophenol.	99-55-6	No Testing.
7. p-Aminophenol.	123-30-8	No Testing.
8. Chlorinated paraffins (C_{12}, 60% chlorine).	63449-39-8	Defer, pending EPA evaluation of submitted studies on the *in vitro* absorption of the chemical through human skin.

Of the eight chemicals, four have been previously selected for toxicology study by the NTP. Diazepam has been selected for testing in the Salmonella microsomal assay and is currently on test for chromosomal aberrations and sister chromatid exchanges in Chinese hamster ovary cells *in vitro.* o-Aminophenol was mutagenic in the *Salmonella* microsomal assay but did not induce sex-linked recessive lethal mutations in *Drosophila.* p-Aminophenol was nonmutagenic in the *Salmonella* microsomal assay. Chlorinated paraffins (C_{12}, 60% chlorine) was nonmutagenic in the *Salmonella* microsomal assay. In an NTP gavage carcinogenicity study there was clear evidence for carcinogenicity for chlorinated paraffins ($_{12}$, 60% chlorine) in both sexes of F-344/N rats and $B6C3F_1$ mice.

Interested parties are requested to submit pertinent information. The following types of data are particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential.

(2) Uses and resulting exposure levels, where known.

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results in the case of completed studies.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by November 10, 1986. Any submissions received after the above date will be accepted and utilized where possible.

Dated: Oct. 6, 1986.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 86-22965 Filed 10-9-86; 8:45 am]

BILLING CODE 4140-01-M

Privacy Act of 1974: Addition of Routine Use to Existing System of Records

AGENCY: Public Health Service, DHHS.

ACTION: Notification of addition of routine use to existing system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposed new routine use for an existing system of records, 09-25-0005, "Administration: Library Circulation and User I.D. File, HHS/NIH/OD." The proposed new routine use will permit disclosure to a contractor for the purpose of compiling information regarding the needs of the users of the National Institutes of Health's Library.

DATE: PHS invites interested persons to submit comments on the proposed new routine use on or before November 10, 1986.

PHS will adopt the new routine uses without further notice 30 days after the date of publication (November 10, 1986) unless PHS receives comments which would result in a contrary determination.

ADDRESS: Send comments to the NIH Privacy Act Coordinator at the address listed below. Comments received may be inspected weekdays between 9 a.m. and 3 p.m., at that address.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Bullman, J.D. NIH Privacy Act Coordinator, Building 31, Room 3B03D, 9000 Rockville Pike, Bethesda, MD 20892

or call 301-496-2832 (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The National Institutes of Health (NIH), Division of Research Services, proposes to establish a new routine use in the system of records: 09-25-0005, "Administration: Library Circulation and User I.D. File, HHS/NIH/OD."

The NIH Library circulation and user files are a part of an automated catalog and circulation control system providing rapid and thorough services to Library's users.

The proposed new routine use will enable contractors to access the Library circulation and user file in order to compile information needed to establish general NIH users' needs and requirements. In situations where it is cost effective to do so, or when NIH lacks staff or other necessary resources, the proposed routine use will also allow NIH to contract with private firms for specific activities which contribute to accomplishing the purpose for which these systems are maintained. This new routine use is compatible with the stated purpose for which the information is collected.

The Library has 6,500 cardholders who are entitled to all Library services including circulation of a part of the collection, interlibrary loan, free photocopy service, reference services and computerized bibliographic retrieval services. The contractor will work closely with library personnel in selecting and compiling data needed to determine alternative means of satisfying user needs and requirements, including costs and performance of these alternatives. The information provided from the Library's circulation file is used for surveys and interviews of selected library users, comparisons of Library data with other automated systems in similar libraries, and determinations of need to collect additional information.

For purposes of the Privacy Act, contractors and contractor employees are legally considered employees of the agency, with the same responsibilities

and liabilities as regular Government employees for implementing the Privacy Act. Contractors are instructed to make no further disclosure except as authorized by the system manager. Contractors are required to comply with the requirements of the Privacy Act. NIH program officials will monitor contractor compliance.

In addition, the Safeguard section of the notice has been revised to reflect the addition of the new routine use. NIH has also made other updating changes to improve the clarity and specificity of the system notice.

The proposed routine use will not become effective until 30 days after the date of this publication. However, it is written in the present tense, rather than future tense in order to avoid the unnecessary expenditure of public funds to republish the notice after the routine use has become effective.

Dated: October 2, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–25–0005

System name:

Administration: Library Circulation and User I.D. File, HHS/NIH/OD.

Security classification:

None.

System location:

Building 10, Room 1L25B
and
Building 12A, Room 3018, 9000 Rockville Pike, Bethesda, MD 20892.

Categories of individuals covered by the system:

NIH employees.

Categories of records in the system:

Library records.

Authority for maintenance of the system:

Public Health Service Act: 42 U.S.C. 241.

Purpose of the system:

Library material, services and circulation control.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records of Library users may be disclosed to NIH contractors and staff in order to accomplish library material, services and circulation control. Recipients are required to maintain Privacy Act safeguards with respect to those records.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevent and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS has determined that such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer tape and disc, and on file cards.

Retrievability:

Records are retrieved by name.

Safeguards:

Authorized Users: Employees and authorized contractors who maintain records in this system are instructed to grant regular access only to Library staff members who need to verify that Library identification cards have been issued to those Library users requesting services such as MEDLINE and other computer online bibliographic searches, translations and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

Physical Safeguards: The offices housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files.

Procedural Safeguards: Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, Supplementary chapter PHS of: 45–13, and Part 6, "ADP System Security" of the HHS Information Resource Management Manual.

Retention and disposal:

Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager and address:

Chief, Reference and Bibliographic Services Section, Library Branch, Division of Research Services, Building 10, Room 1L21, NIH, 9000 Rockville Pike, Bethesda, MD 20892
and
Librarian, Division of Computer Research and Technology, Building 12A, Room 3018, NIH, 9000 Rockville Pike, Bethesda, MD 20892

Notification procedure:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Record access procedure:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record, if any.

Contesting record procedure:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

Record source categories:

Individual, NIH Library ID cards.

Systems exempted from certain provisions of the Act:

None.

[FR Doc. 86-23002 Filed 10-9-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

National Park Service

Oil Drilling Big Cypress National Preserve; Oil and Gas Plans of Operation

Notice is hereby given pursuant to § 9.52(b) of Title 36 of the Code of Federal Regulations of the availability for comment and review of a plan of operations submitted by Clements Energy, Inc., for the purpose of oil drilling in the Big Cypress National Preserve. Copies of the plan of operations are available for review at: Big Cypress National Preserve, S.R. Box 110, Satinwood Drive, Ochopee, Florida, 33943 (telephone 813-695-2000); National Park Service, Southeast Regional Office, 75 Spring Street SW., Atlanta, Georgia, 30303 (telephone 404-331-4916); and at the Miami-Dade Public Library, 1 Biscayne, Miami, Florida, 33139. Comments received within 30 days of the publication of this notice will be entered into the official records. For further information contact Fred Fagergren, Superintendent, Big Cypress National Preserve, (813) 695-2000.

Fred J. Fagergren,

Superintendent.

[FR Doc. 86-23052 Filed 10-9-86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the eighteenth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on October 28, 1986.

The primary purpose of the meeting is to develop recommendations for BIFAD as to what steps or actions should be taken to implement the Agenda for the second decade of Title XII. The recommendations will specify who or what groups (i.e. Panels, BIFAD Staff, etc) should take to lead in each action.

JCARD will meet from 9:00 a.m. to 4:00 p.m. on October 28 in room 5951, New State Department Building, 22nd & "C" St. NW., Washington DC. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, DC 20523 or telephone him at (202) 647-6987.

Dated: October 7, 1986.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development Board for International Food and Agricultural Development.

[FR Doc. 86-23003 Filed 10-9-86; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30917]

Alabama & Florida Railroad Co., Inc.—Trackage Rights—Andalusia & Conecuh Railroad Co., Inc.; Exemption

Andalusia & Conecuh Railroad Company, Inc. (A&C) has agreed to grant local and overhead trackage rights to Alabama & Florida Railroad Company, Inc. (A&F) between the point of interchange between A&C and A&F (milepost S-429 plus 770 feet), and the Amoco Fabrics Plant (milepost S-426 plus 3,800 feet), a distance of approximately 2.0 miles in Andalusia, AL. The trackage rights will be effective on October 1, 1986.

This Notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: September 29, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-23084 Filed 10-9-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-32; Sub. 35X]

Boston and Maine Corp.—Exemption—Abandonment in Strafford County, NH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by the Boston and Maine Corporation of a 1.53-mile segment of rail line located in the City of Dover, Strafford County, NH, subject to standard labor protection.

DATES: This exemption will be effective November 10, 1986. Petitions for stay must be filed by October 20, 1986, and reconsideration must be filed by October 30, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-32 (Sub-No. 35X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Kinga M. LaChapelle, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862-1685.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 3, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-22988 Filed 10-9-86; 8:45 am]

BILLING CODE 7035-02-M

[Finance Docket No. 30907]

Baltimore and Ohio Railroad et al.; Railroad Car Service Pooling Application; Filing and Proposed Special Rules of Procedure

October 6, 1986.

An application, as summarized below, has been filed by certain railroad companies under 49 U.S.C. 11342(a) for authority to enter into an agreement for the pooling of car service (pooling agreement) with respect to boxcars (defined to be those cars designated by Association of American Railroads Car Type Code XM, XF, XL, XP, XMI, XLI, and XPI in the Official Railway Equipment Register) and for prior approval of that agreement. The railroads listed as applicants are:

The Baltimore and Ohio Railroad Company
The Chesapeake and Ohio Railway Company
CSX Transportation, Inc.
Consolidated Rail Corporation
Guilford Transportation Industries, Inc. (Rail Division)
Illinois Central Gulf Railroad Company
Richmond, Fredericksburg & Potomac Railroad Company.

Applicants' representatives are: Basil Cole, Esq., Robert P. vom Eigen, Esq., 888 16th Street NW., Washington, DC 20006, (202) 835–8267.

Description of the Transaction

The proposed pool consists of an arrangement allowing Fleet Management, Inc. (FMI), a wholly-owned subsidiary of Fruit Growers Express Company (FGE), to manage a fleet of boxcars that have been contributed to the pool by the participating carriers. As manager of the pool, FMI will act as agent for those carriers for the purpose of directing the routing of the empty boxcars assigned to the pool.

Applicants assert that the proposed transaction involves no pooling of earnings. Rather, the proposed pool will be operated as a commercial venture, with each railroad participant compensating FMI for its services based on actual reduction in empty car-miles. Through FMI's management of the fleet, the participants expect to decrease the empty mileage for boxcars by the reloading of empty cars at points closer to the original point of unloading than is feasible under the current common practice of returning each empty to its owner road or assigned loading point.

Participation in the pool will not be limited to the railroads that have joined in the filing of the application, but will be open to other United States railroads who become signatories to the pooling agreement and comply with its provisions. If the application is approved, applicants have requested that the Commission adopt an expedited procedure for approval of other railroads' participation.

A copy of the application is on file and can be examined in the Office of the Secretary, Interstate Commerce Commission, Washington, DC. A copy of the application may also be requested from applicants.

In the opinion of applicants, the requested Commission action will not significantly affect either the quality of the human environment or energy consumption. Any protest may include a statement indicating the presence or absence of any impact of the requested Commission action on energy conservation, energy efficiency or the environment. If any such impacts are alleged, the statement shall be accompanied by supporting data indicating the nature and degree of the anticipated impact.

Evidence will be received through written verified statements in accordance with the following provisions: (a) Applicants' verified statements are those accompanying their application; (b) other verified statements in support of the application shall be due on October 30, 1986; (c) any protests and supporting verified statements shall be filed with the Commission by November 10, 1986, with a copy to be served on applicants' counsel at the address stated above; (d) reply statements by all parties shall be due on December 1, 1986. No oral hearing is contemplated.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 22985 Filed 10–9–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30900; Finance Docket No. 30900 (Sub-No. 1)]

Application and Petition for Exemption Joint Application of CSX Corp. and Sea-Land Corp.; CSX Corporation—Control—Sea-Land Freight Service, Inc. and Intermodal Systems, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing comments.

SUMMARY: American President Companies, Ltd. and Farrell Lines Incorporated request that the time for filing comments on the application and petition for exemption [51 FR 31734] be extended from October 6, 1986, to October 27, 1986. Applicants oppose any extension. Because responses to interrogatories were not completed until September 26, 1986, an extension is warranted, but it must be limited in view of the need for expedited consideration of the application and petition for exemption. A 10-day extension is granted.

DATES: Comments are now due October 16, 1986, and applicants' replies are now November 17, 1986.

ADDRESS: An original and 15 copies of comments and replies, referring to Finance Docket Nos. 30900 and 30900 (Sub-No. 1), should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

One copy of comments should be sent to each of applicants' representatives, whose names and addresses were listed in the previous notice [51 FR 31374]. Applicants must serve their replies on all parties who file comments.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar, 275–7245

or

Thomas Gire, 275–1723

Decided: October 2, 1986.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 86–22986 Filed 10–9–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30727]

Exemption; Grand Trunk Western Railroad Co.—Trackage Rights—Michigan Interstate Railway Co.

Michigan Interstate Railway Company (MIRC) has agreed to grant overhead trackage rights to Grand Trunk Western Railroad Company (GTW) over its line of railroad between the point of connection of MIRC's line and GTW's line at Diann, MI, and MIRC's terminal at Galena Street in Toledo, OH, a distance of approximately 19.82 miles. The trackage rights will be effective after expiration of the notice period specified in 49 CFR 1180.4(g)(1).

As a condition to use of this exemption, any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction

Dated: October 2, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-22987 Filed 10-9-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-57 (Sub-No. 16X); Finance Docket No. 30691]

Soo Line Railroad Co.; Abandonment Exemption Between Bismarck and Moffit, ND; Soo Line Railroad Co.; Exemption; Construction of Rail Connection at Moffit, ND

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemptions.

SUMMARY: The Interstate Commerce Commission exempts under 49 U.S.C. 10505 from the prior approval requirements of: (1) 49 U.S.C. 10903 *et seq.*, the abandonment by Soo Line Railroad Company (Soo) of 23.10 miles of track between milepost 416.00, near Bismarck, ND, and milepost 392.90, near Moffit, ND, subject to standard labor protective conditions; and (2) 49 U.S.C. 10901, the construction by Soo of 644 feet of connecting track between its line and a Burlington Northern Railroad Company (BN) line near Moffit, ND, over which Soo will operate under a trackage rights agreement with BM.

DATES: These exemptions will be effective on November 10, 1986. Petitions to stay must be filed by October 20, 1986, and petitions for reconsideration must be filed by October 30, 1986.

ADDRESSES: Send pleadings referring to the applicable docket number to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Byron D. Olsen, 804 Soo Line Building, 105 South Fifth Street, Minneapolis, MN 55440

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the full decision. To purchase a copy of it write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 2, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-22989 Filed 10-9-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

State of Maine Department of Labor; Hearing

This notice announces an opportunity for a hearing for the State of Maine Department of Labor, pursuant to section 3302(c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 3302(c)(3), and 29 CFR 91.63(e), to be held at 9:30 o'clock in the morning of October 15, 1986, in a courtroom in the Vanguard Building, 1111 20th Street, NW., Washington, DC. The State agency will have an opportunity to make a record.

The hearing will be held on the following issue:

Issue: Whether the State of Maine has fulfilled its commitments for the year 1986 under an Agreement with the Secretary of Labor entered into under Section 239 of the Trade Act of 1974, as amended.

Basis of Issue: Provisions for Trade Readjustment Allowances (TRA) for U.S. workers affected by foreign import competition were incorporated into Sections 231 to 234 of the Trade Act of 1974 (Act). 19 U.S.C. 2291 to 2294. Under section 239 of the Act, 19 U.S.C. 2231, the Secretary of Labor (Secretary) is authorized to enter into an agreement with a State, enabling the State to administer the TRA program, as an agent of the United States. Such an agreement was entered into between the State of Maine and the Secretary, on March 28, 1975 (Agreement). Effective after September 30, 1981, sections 231 to 233 of the Act were amended by the Omnibus Reconciliation Act of 1981 (OBRA), Pub. L. 97-35, 95 Stat. 357, 881-890. The Agreement between Maine and the Secretary was correspondingly modified, on September 24, 1981, to incorporate the statutory changes.

Prior to the 1981 amendments, the TRA eligibility period for each adversely affected worker was measured from the worker's last qualifying separation from adversely affected employment. Provisions to that effect were found in regulations published in 1975 at 29 CFR Part 91. However, the entire eligibility provisions under section 231 to 233 of the Trade Act were amended by the OBRA and the provision for using a worker's last separation from employment has been eliminated from the statute. The conflict that exists between the State of Maine and the U.S. Department of Labor (USDOL) is whether the last qualifying separation is applicable in determining the TRA eligibility period, as contended by Maine, or whether only the first such separation is relevant, as contended by the USDOL. The issue is, then, whether the eligibility provisions of the 1975 regulations remain controlling or whether they have been superseded by the statutory amendments in the OBRA (1981). This is the matter presently before the Secretary.

If the Secretary finds that the State's administration of the program is not in accord with the law, it will mean that the State has failed to fulfill its commitments under the Agreement. Such a finding could resut in a partial reduction of the tax credits otherwise allowable to Maine employers for the year 1986, pursuant to section 3302(c)(3) of the Federal Unemployment Tax Act. 26 U.S.C. 3302(c) (3). Therefore, by this Notice, the Secretary is affording the State of Maine the opportunity for a hearing, pursuant to 29 CFR 91.63(e) and 26 U.S.C. 3302(c) (3), in order for the State to present its case and to make a record before the Secretary issues his decision in the matter.

Authority for Notice of Hearing

This Notice of Hearing is issued pursuant to section 3302(c) (3) of the Internal Revenue Code of 1954, 26 U.S.C. 3302(c) (3) and 29 CFR 91.63(e). Section 302(c) (3) of the Internal Revenue Code of 1954 provides:

(3) If the Secretary of Labor determines that a State, or State agency, has not—

(A) entered into the agreement described in section 239 of the Trade Act of 1974, with the Secretary of Labor before July 15, 1975, or

(b) fulfilled its commitments under an agreement with the Secretary of Labor as described in section 239 of the Trade Act of 1974,

then, in the case of a taxpayer subject to the unemployment compensation law of such State, the total credits (after applying subsections (a) and (b) and paragraphs (1) and (2) of this section) otherwise allowable under this section for a year during which such State or agency does not enter into or fulfill such an agreement shall be reduced by 7½ percent of the tax imposed with respect to wages paid by such taxpayer during such year which are attributable to such State.

Section 91.63(e) of Title 29, Code of Federal Regulations (40 FR 16304, April 11, 1975) provides, in pertinent part:

(e) *Breach.* If the Secretary finds that a State or State agency has not executed an agreement under this section before July 1, 1975, or that a State or State agency has not fulfilled its commitments under such agreement, section 3302(c)(4) [in the Code redesignated as paragraph (3)] of the Internal Revenue Code of 1954, as added by section 239 of the Act, shall apply. A State agency or State shall receive reasonable notice and opportunity for hearing before a finding is made under this paragraph that it has not fulfilled its commitments under its agreement.

These Proceedings

Following the hearing, a decision will be made by the Secretary of Labor which will have a bearing on whether the tax credits otherwise allowable to Maine employers under section 3302 of the Internal Revenue Code of 1954 for the taxable year 1986 shall be partially reduced, pursuant to section 3302(c)(3) of the Code.

The proceedings in this matter shall be in accordance with the Rules of Procedure accompanying this notice. For purposes of this hearing, all motions, briefs, and other papers shall be filed, pursuant to the above referenced Rules of Procedure, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, DC 20036, who will be designated in accordance with the Rules of Procedure.

Counsel for the Maine Department of Labor shall enter an apperance with the presiding Administrative Law Judge no later than October 8, 1986; a copy shall be provided to Charles D. Raymond, Acting Associate Solicitor for Employment and Training, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, as expeditiously as possible.

Counsel for the U.S. Department of Labor shall enter an appearance with the presiding Administrative Law Judge no later than October 8, 1986; a copy shall be provided to the Maine Department of Labor as expeditiously as possible.

Signed at Washington, DC, on October 6, 1986.

William E. Brock,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the Maine Department of Labor and the United States Department of Labor. The Maine Department of Labor is hereafter designated as the MDOL, and the United States Department of Labor is hereafter designated as the USDOL.

3. Any non-party State agency, individual worker, employer, organization, association of workers or employers, or member of the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in these proceedings as *amicus curiae* only. Participation by any such *amicus curiae* shall be limited to the submittal of such briefs as may be directed by the presiding Administrative Law Judge. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than two (2) days prior to the scheduled hearing, and shall be served upon and received by the counsel for each party prior to the hearing. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings prior to the hearing or at the beginning of the hearing.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, and designation of evidence to be offered at the hearing.

5. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings, may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

6. Upon the commencement of the hearing, the USDOL will be offered an opportunity to make an opening statement as to the nature of the hearing and the matters in issue. The MDOL will then be offered a similar opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The USDOL will proceed first by presenting any evidence it may wish to offer which is relevant to the issue specified in the Notice of Hearing.

(b) The MDOL will proceed next to present any evidence it may wish to offer which is relevant to the issue referred to in Rule 7(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to the USDOL at least three business days prior to the hearing.

(c) The USDOL may next present relevant evidence in rebuttal of any issue, and the trial record shall thereafter be closed, except as provided for by Rule 9 below.

8. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

9. During the hearing the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter. After the hearing is closed, no further evidence shall be taken unless (a) provision has been made at the hearing for the later receipt of such evidence for the record by the presiding Administrative Law Judge; or (b) the Secretary of Labor requires further evidence in order to issue his decision, and so directs.

10. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript shall be furnished to the presiding Administrative Law Judge. Copies of the transcript of the record of hearing may be obtained by the parties of record and any interested person permitted to participate in the proceedings upon such terms as they may arrange.

11. When any document is offered in evidence, two additional copies thereof shall be submitted to the presiding Administrative Law Judge and, unless previously provided, a copy shall be provided to the opposing party of record.

12. At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral argument presented by the parties of record, which shall be recorded. Oral arguments shall be in the following order: opening argument for the USDOL, unless waived; argument for the MDOL unless waived; and closing argument for the USDOL, unless waived.

13. The parties of record and any *amicus curiae* authorized to participate in the proceedings shall be permitted to file briefs. The parties of record may also file reply briefs and proposed findings of fact and conclusions of law on the matters in issue. All such briefs and other papers shall be filed, in an original and one copy, with the presiding Administrative Law Judge, with proof of service upon the parties, within such time periods as are established by the presiding Administrative Law Judge.

14. Briefs and other papers filed with the presiding Administrative Law Judge under these rules shall be deemed to be filed on the date they are received in the office of the presiding Administrative Law Judge. If the last day of a time limit for filing briefs or other papers falls on a Saturday, Sunday, or a Federal legal holiday, the time limit shall be extended to the next official business day. Briefs and other papers filed with the presiding Administrative Law Judge shall be accepted subject to timely filing and sufficient proof of service upon the parties as required by these Rules.

15. As soon as possible, but in any event no later than November 26, 1986, the presiding Administrative Law Judge shall: (a) Prepare a recommended decision on the basis of the record, containing recommended findings of fact and conclusions of law on all issues raised by the parties; (b) certify to the Secretary of Labor such recommended decision and the entire record of the proceedings; and (c) forward a copy of the recommended decision to each party of record and *amicus curiae.*

16. Any party of record may file with the Secretary of Labor a Statement of Exceptions, with proof of service, setting forth any exceptions they may have to the recommended decision, within ten (10) days after service by mail of the recommended decision. In the absence of timely filing and sufficient proof of service on the party, a Statement of Exceptions filed by a party shall not be considered by the Secretary of Labor in making his decision.

17. As soon as possible after such certification to him by the presiding Administrative Law Judge (paragraph 15, above), but no later than December 15, 1986, the Secretary shall render his decision in the matter, in writing, and shall forward copies of his decision to the Governor of the State, to each party of record, and to any *amicus curiae* authorized to participate in the proceedings.

18. The decision of the Secretary of Labor shall constitute final agency action.

[FR Doc. 86-23041 Filed 10-9-86; 8:45 am]
BILLING CODE 4510-30-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Bakken Industries, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 22, 1986–September 26, 1986 and September 29, 1986–October 3, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision, have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–17,354; Bakken Industries, Inc., Godfrey, IL

TA–W–17,398; General Electric Co., Capacitor Products Dept., Hudson Falls, NY

TA–W–17,414; Bijur Lubricating Corp., Bennington, VT

TA–W–17,564; LTV Steel Co., Wilton, IA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–17,538; Babcock & Wilcox Co., Tubular Products Group, Beaver Falls Works, Beaver Falls, Ambridge and Koppel, PA

Aggregate U.S. imports of seamless carbon steel pipe and tubing did not increase as required for certification.

TA–W–17,646; Gus Manufacturing, El Paso, TX

Aggregate U.S. imports of electrical geophysical instruments did not increase as required for certification.

TA–W–17,619; Sun Exploration & Production Co., Inc., Exploration Div., Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,386; Hughes Drilling Fluids, Oklahoma City, OK

Aggregate U.S. imports of drilling fluids are negligible.

TA–W–17,387; Hughes Drilling Fluids, Houston, TX

Aggregate U.S. imports of drilling fluids are negligible.

TA–W–17,388; Hughes Drilling Fluids, Candian, TX

Aggregate U.S. imports of drilling fluids are negligible.

TA–W–17,610; Wilson Brothers Drilling Co., Seminole, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,593; S.W. Jack Drilling Co., Buckhannon, WV

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,623; Beard Drilling Co., Oklahoma City, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,627; Geco Geophysical Co., Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,535; Westburne Drilling, Inc., Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,244; Duti Duds, Huddleston, VA

Separations at the subject firm were due to a domestic transfer of operations.

TA–W–17,545; Phillips Petroleum Co., Phillips 66 Natural Gas Co., Williston Office, Williston, ND

The workers provided support services for an affiliated production facility whose workers are not currently certified.

TA–W–17,445; Lone Star Steel Co., Lone Star, TX

Aggregate U.S. imports of carbon steel pipe and tube did not increase as required for certification.

TA–W–17,450; Lone Star T & N Warehouse Co., Lone Star, TX

Aggregate U.S. imports of carbon steel pipe and tube did not increase as required for certification.

TA–W–17,632; Geosource, Inc., Formerly Known as Petty-Ray Geophysical, Englewood, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,768; Precision Exploration, Olney, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,661; Big C Oil Co., Archen, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,542; LTV Steel Co., Beaver Falls, PA

Aggregate U.S. imports of carbon and alloy steel bars did not increase as required for certification.

TA–W–17,805; Whiteside Casing Crews, Inc., Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,728; Dresser Industries, Guiberson Division, Dallas, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA–W–17,722; Gensco, Inc., Houston, TX

Aggregate U.S. imports of carbon steel pipe and tube did not increase as required for certification.

TA–W–17,793; Exxon Production Research Co., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,864; LTV Steel Co., Hammond Cold Finished Bar Plant, Hammond, IN

Aggregate U.S. imports of cold finished carbon steel bars and alloy steel bars did not increase as required for certification.

TA–W–17,935; AT&T Information Systems, Austin, TX

Imports did not contribute importantly to employment declines at the firm.

TA–W–18,010; Pool Company, Tioga, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,011; Pool Company, Williston, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,836; Buckeye, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,751; Smith Drilling Co., Lawrenceville, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,749; Sojourner Drilling Co., Abilene, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,738; Brinkerhoff-Signal Drilling Co., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,343; Ottenheimer & Co., Inc., Dawson Springs, KY

Separations at the subject firm were due to a domestic transfer of operations.

TA–W–17,841; H&L Rentals, Inc., Williston, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,845; Timax Drilling, Inc., Millersburg, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,846; West Sierra Drilling Co., Abilene, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,854; Lenwood Tarpley, Inc., Crane, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,856; Strata Energy Minerals, Williston, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,817; Mac Services, Inc., Victoria, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,818; Wills Enterprises, Inc., Abilene, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,821; Franks Fuel, Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,822; Bandera Drilling Co., Abilene, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,823; Cactus Drilling Co., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,824; Global Marine Drilling Co., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,825; WellTech, Inc., Sidney, MT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,827; Maxwell Herring Drilling Corp., Tyler, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–17,828; Halliburton Services, Mission, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–17,384; Bendix Safety Restraint Systems Division, Knoxille, TN

A certification was issued covering all workers is the assembly department of the firm separated on or after August 1, 1985 and before January 15, 1986.

TA–W–17,334; American Rubber Manufacturing Co., Inc., Oakland, CA

A certification was issued covering all workers of the firm separated on or after April 4, 1985 and before September 30, 1986.

TA–W–17,332; Milan Manufacturing Division of HKH Industries, Milan, GA

A certification was issued covering all workers of the firm separated on or after September 1, 1985 and before June 30, 1986.

TA–W–17,259; Coquette Manufacturing Co., Mauston, WI

A certification was issued covering all workers of the firm separated on or after March 6, 1985 and before November 1, 1985.

TA–W–17,361; Nortech, Inc., Benidji, MN

A certification was issued covering all workers of the firm separated on or after June 1, 1985.

TA–W–17,372; Weyenberg Shoe Manufacturing Co., Lakeskid Plant, Beaver Dam, WI

A certification was issued covering all workers of the firm separated on or after February 1, 1986.

TA–W–17,435; Sperry Corp., Plant #4, Roseville, MN

A certification was issued covering all workers of the firm separated on or after October 1, 1985 and before July 15, 1986.

TA–W–17,199; Cherin Dress Co., Inc., Newark, NJ

A certification was issued covering all workers of the firm separated on or after January 10, 1985 and before October 30, 1985.

TA–W–17,137; American Standard, Inc., Westinghouse Air Brake Co. (WABCO) Wilmerding, PA

A certification was issued covering all workers of the firm separated on or after January 17, 1985.

TA–W–17,138; American Standard, Inc., Westinghouse Air Brake Co. (WABCO) Greensburg, PA

A certification was issued covering all workers of the firm separated on or after September 1, 1985.

TA–W–17,506; Necla Mining Co., Lucky Friday Mine, Mullan, ID, Consolidated Silver Mine, Osburn, ID, Hecla Shop, Burke, ID

A certification was issued covering all workers of the firm separated on or after May 1, 1985.

TA–W–17,375; Corning Glass Works Middle Factory, Charleroi, PA

A certification was issued covering all workers of the firm separated on or after April 16, 1985.

TA–W–17,399; General Electric Co., Capacitor Products Dept., Fort Edward, NY

A certification was issued covering all workers of the firm separated on or after April 23, 1985.

TA–W–17,392; A&M Rubber Supply, Inc., Lewiston, ME

A certification was issued covering all workers of the firm separated on or after April 18, 1986.

TA–W–17,326; Triangle Tool Group, Orangeburg, SC

A certification was issued covering all workers of the firm separated on or after March 27, 1985.

TA–W–17,358; Diamond Tool & Horseshoe Co., Duluth, MN

A certification was issued covering all workers of the firm separated on or after December 5, 1985.

TA–W–17,329; GTE Communication System Corp., El Paso, TX

A certification was issued covering all workers of the firm separated on or after March 16, 1985.

TA–W–17,750; Midland Ross Corp., Midtex Div., North Mankato, MN

A certification was issued covering all workers of the firm separated on or after July 14, 1985.

TA–W–17,559; Steelton Highspire Railroad, Steelton, PA

A certification was issued covering all workers of the firm separated on or after May 29, 1985.

TA–W–17,422; New Departure Hyatt Division of General Motors Corp., Bristol, CT Plant

A certification was issued covering all workers of the firm separated on or after April 28, 1985.

TA–W–17,522; Sunshine Mining Co., Kellogg, ID

A certification was issued covering all workers of the firm separated on or after May 20, 1985.

TA–W–17,373; Carmel Energy, Inc., Deerfield, MO

A certification was issued covering all workers of the firm separated on or after January 1, 1986.

TA–W–17,374; Carmel Energy, Inc., Iola, KS

A certification was issued covering all workers of the firm separated on or after January 1, 1986.

TA–W–17,380; Noranda Aluminum, Inc., New Madrid, MO

A certification was issued covering all workers of the firm separated on or after April 16, 1985.

I hereby certify that the aforementioned determinations were issued during the period September 22, 1986–September 26, 1986 and September 29, 1986–October 3, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 6, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–23042 Filed 10–9–86; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 20, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 20, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 30th day of September 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Horizon Mud Company (workers)	Midland, TX	9/16/86	9/10/86	TA-W-18,210	Sales and service of drilling fluids and chemicals
J.H. Clough Oil Field Contracting Service (workers)	Beecher City, IL	9/15/86	9/5/86	TA-W-18,211	Trucking service
Whipco Hydraulic and Valve, Inc. (workers)	Odessa, TX	9/16/86	9/12/86	TA-W-18,212	Gauges and pressure products used in oil field drilling
Sharp Drilling Co. (workers)	Odessa, TX	9/16/86	9/11/86	TA-W-18,213	Oil and gas drilling services
Coronado Transmission Company (workers)	Houston, TX	9/16/86	9/3/86	TA-W-18,214	Pipe laying service
Elaine Pleating Inc. (workers)	N. Bergen, NJ	9/19/86	9/12/86	TA-W-18,215	Pleated garments
Kingwood Shoe, Div., Kinney Shoe Corp. (ACTWU)	Kingwood, WV	9/18/86	9/15/86	TA-W-18,216	Women's girls' dress/casual shoes
Cowdens Mfg. Co. (workers)	Stanford, KY	9/19/86	9/3/86	TA-W-18,217	Women's jeans
Rockwell Intl. Corp. (workers)	Barberton, OH	9/23/86	9/19/86	TA-W-18,218	A system of distributorships
Gubelman Chart Div. (workers)	Newark, NJ	9/26/86	9/16/86	TA-W-18,219	Med. and Indus. Recordings charts
Botany 500 (workers)	Philadelphia, PA	9/22/86	9/19/86	TA-W-18,220	Suits and sportcoats
Judson Steel Corp. (workers)	Emeryville, CA	9/22/86	9/17/86	TA-W-18,221	Steel reinforcing bars
Sexton Can (workers)	Everett, MA	9/22/86	9/17/86	TA-W-18,222	Electronic capacitors-areosal cans
Elkay Mining Company	Rita, WV	9/16/86	9/16/86	TA-W-18,223	Metallurgical and steam coal
Carbon Coal (workers)	Gallup, NM	9/16/86	9/15/86	TA-W-18,224	Steam coal
Benton Casing Service (workers)	Victoria, TX	9/12/86	9/4/86	TA-W-18,225	Oil services
United Energy (workers)	Bridgeport, TX	9/15/86	9/1/86	TA-W-18,226	Oil services
Chevron Refinery (OCAWU)	Cleveland, OH	9/11/86	9/3/86	TA-W-18,227	Oil refinery products
Canals Well Service (workers)	Kermit, TX	9/15/86	9/8/86	TA-W-18,228	Oil services
Dixilyn Field Drilling (workers)	Alice, TX	9/15/86	9/3/86	TA-W-18,229	Oil services
Santa Fe International (workers)	Lafayette, LA	9/11/86	9/8/86	TA-W-18,230	Oil services
Energy Exchange Corp. (workers)	Oklahoma, OK	9/4/86	9/20/86	TA-W-18,231	Oil and gas exploration
AMF Scientific Drilling (workers)	Corpus Christi, TX	9/12/86	9/12/86	TA-W-18,232	Oil services
Bob Fourent Co. (the) (workers)	Corpus Christi TX	9/11/86	9/11/86	TA-W-18,233	Oil survey
Standard Oil Production (workers)	Dallas, TX	9/12/86	9/8/86	TA-W-18,234	Oil services
Westwood Drilling Co. (workers)	Laredo, TX	9/11/86	9/4/86	TA-W-18,235	Oil drilling
Wilson Downhole Service (workers)	Bay City, TX	9/10/86	9/4/86	TA-W-18,236	Oil services
Halliburton Services (workers)	Elkview, WV	9/5/86	9/3/86	TA-W-18,237	Oil services
Wheeling-Pittsburgh Steel (workers)	Manessen, PA	9/15/86	9/12/86	TA-W-18,238	Steel rails
Wheeling-Pittsburgh Steel (workers)	Allenport, PA	9/15/86	9/12/86	TA-W-18,239	Steel sheet and tubing
E.I. DuPont DeNemours Co. (workers)	Ingleside TX	9/22/86	9/18/86	TA-W-18,240	Carbon tetrachloride
Simonds Cutting Tools (workers)	Newcomerstown, OH	9/23/86	9/9/86	TA-W-18,241	Files and rasp for metal and wood cutting
Famco Mach. Div. (workers)	Kenosha, WC	9/22/86	9/22/86	TA-W-18,242	Power squaring shears
Goodyear Tire & Rubber (workers)	E. Gadsden, ALA	9/22/86	9/15/86	TA-W-18,243	Auto., truck, tractor, tires, etc.
GTE Sylvania (workers)	Winchester, KY	9/23/86	9/16/86	TA-W-18,244	Fght. indoor, outdoor, proj., etc.
Gen. refractories, Co. (workers)	Sproul, PA	9/24/86	9/22/86	TA-W-18,245	Refractories (clay, alumina)
Ashland Chem., Co. (workers)	Larenzo, TX	9/22/86	9/17/86	TA-W-18,246	Chem. used in oil and gas explor., etc.
Dav. and Geck (Amer. Cyanmid) (ICWU)	Danbury, CT	9/23/86	9/15/86	TA-W-18,247	Surgical supplies dist. to hosp. etc.
Alatex, Inc. (workers)	Crestview, FL	9/24/86	9/22/86	TA-W-18,248	Mens underwear
Clint Hurt and Associate (Jane Moore)	Midland, TX	9/11/86	9/8/86	TA-W-18,249	Oil services
Baker International (workers)	Houston, TX	9/3/86	9/3/86	TA-W-18,250	Service tools
Baker Service Tools (workers)	Snyder	9/15/86	9/15/86	TA-W-18,251	Service tools
Bethlehem Steel (workers)	Beaumont, TX	9/12/86	9/12/86	TA-W-18,252	Pipe fitters
Dowell Schlumberger (workers)	Alice, TX	9/15/86	9/11/86	TA-W-18,253	Cement casings
Frank Casing Crew (workers)	Corpus Christi, TX	9/15/86	9/9/86	TA-W-18,254	Runs tubing and casings
Rebel Mud Company (workers)	Corpus Christi, TX	9/12/86	9/9/86	TA-W-18,255	Supplies mud/oil well drilling
Dresser Atlas (workers)	Alice, TX	9/15/86	9/8/86	TA-W-18,256	Survey service
Santa Fee Drilling Co. (workers)	Odessa, TX	9/16/86	9/6/86	TA-W-18,257	Contract drilling
Vachel's Telecomm. (workers)	Ross ND	9/11/86	9/11/86	TA-W-18,258	Sales and service

[FR Doc. 86-23043 Filed: 10-9-86; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut CT86-1 (Jan. 3, 1986). pp. 64-76.
Kentucky:
KY86-25 (Jan. 3, 1986) ..... pp. 328-329.
KY86-26 (Jan. 3, 1986) ..... pp. 333-336.
KY86-27 (Jan. 3, 1986) ..... p. 338.
KY86-28 (Jan. 3, 1986) ..... pp. 343-345.
Massachussetts: MA86-1 (Jan. 3, 1986). p. 349.
New York:
NY86-5 (Jan. 3, 1986) ..... pp. 677-680.
NY86-8 (Jan. 3, 1986) ..... pp. 711-716.
NY86-9 (Jan. 3, 1986) ..... p. 723.
NY86-10 (Jan. 3, 1986) ..... pp. 725-728.
NY86-11 (Jan. 3, 1986) ..... pp. 736-741.
NY86-15 (Jan. 3, 1986) ..... pp. 763-767.
NY86-16 (Jan. 3, 1986) ..... pp. 769-770.
NY86-17 (Jan. 3, 1986) ..... pp. 776-778.
Rhode Island: RI86-1 (Jan. 3, 1986). pp. 965-966.
Tennessee: TN86-4 (Jan. 3, 1986). p. 1024-1027.
Listing by Location (Index)..... p. xxxviii.

Volume II

Illinois:
IL86-1 (Jan. 3, 1986) ..... pp. 62-63, p. 70, pp. 81-86.
IL86-4 (Jan. 3, 1986) ..... pp. 111-112.
IL86-6 (Jan. 3, 1986) ..... pp. 121, 123.
Michigan:
MI86-1 (Jan. 3, 1986) ..... pp. 385-386, pp. 393-398a.
MI86-4 (Jan. 3, 1986) ..... pp. 423-428.
MI86-7 (Jan. 3, 1986) ..... p. 445.
MI86-17 (Jan. 3, 1986) ..... pp. 486-487.
MI86-18 (Jan. 3, 1986) ..... p. 487a.
Wisconsin: WI86-15 (Jan. 3, 1986). p. 1011.

Volume III

Arizona: AZ86-2 (Jan. 3, 1986). pp. 21-23.
California:
CA86-2 (Jan. 3, 1986) ..... pp. 44-45, pp. 47-50, pp. 52-53, p. 55.
CA86-4 (Jan. 3, 1986) ..... pp. 65-66, pp. 71, 77, pp. 81-82.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 3rd day of October 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-22783 Filed 10-9-86; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-85-126-C]

Buck Mountain Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Buck Mountain Coal Company, 14 Maple Street, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Buck Mountain Slope (I.D. No. 36-01962) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine is damp to very wet. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

3. Petitioner states that the distance from the portal to the actual working face is less than 2,000 feet. The mine can be evacuated in less than 15 minutes.

4. Sections of the mine are subjected to freezing temperatures making constant availability of the device questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 10, 1986. Copies of the

petition are available for inspection at that address.

Dated: September 30, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23044 Filed 10-9-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. 85-183-C]

International Anthracite Corp.; Petition for Modification of Application of Mandatory Safety Standard

International Anthracite Corporation, Box 546, Valley View, Pennsylvania 17983 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its B & M Tunnel (I.D. No. 36-01781) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. Petitioner states that the mine is damp to very wet and all tunnels and gangways are in solid rock with steel sets or roof bolts used for support. If a fire were to occur anywhere on the intake side of the mine, it would be discovered immediately by an automatic monitoring system currently in use.

3. Sections of the mine are subjected to freezing temperatures and the devices may not function properly in those temperatures. The wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescurers.

4. Petitioner further states that the devices are too heavy and bulky to be lugged around in the small confines of the mine.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 10, 1986. Copies of the petition are available for inspection at that address.

Dated: October 1, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23045 Filed 10-9-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-119-C]

R.S. and W. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

R.S. and W. Coal Company, Box 34, Leck Hill, Pennsylvania 17836 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its R.S. and W. Drift Mine (I.D. NO. 36-01818) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine is always damp to wet, with one piece of electrical equipment, which is a small pump located at the foot of the slope.

3. Petitioner states that the distance from the mine portal to the actual working face is less than 2,000 feet. The mine can be evacuated in less than 15 minutes.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

5. Sections of the mine are subjected to freezing temperatures making constant availability of the device questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

6. For these reasons, petitioner requests a modificaion of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 10, 1986. Copies of the petition are available for inspection at that address.

Dated: September 30, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23046 Filed 10-09-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-89-C]

Wenrich Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Wenrich Coal Company, Star Route, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Buck Mountain Slope (I.D. No. 36-05717) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine is always damp to wet, with one piece of electrical equipment, which is a large pump located at the foot of the slope.

3. Petitioner states that the distance from the portal to the actual working face is less than 2,000 feet. The mine can be evacuated in less than 15 minutes.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

5. Sections of the mine are subjected to freezing temperatures making constant availability of the device questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 10, 1986. Copies of the petition are available for inspection at that address.

Dated: September 30, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23047 Filed 10-9-86; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 86-122; Exemption Application No. D-6537, et al.]

Grant of Individual Exemptions; Los Angeles County Painting Industry Pension Trust Fund et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Los Angeles County Painting Industry Pension Trust Fund (the Pension Plan) and Los Angeles County Painting Industry Apprenticeship Trust Fund (the Apprenticeship Plan; together, the Plans) Located in Los Angeles, California

[Prohibited Transaction Exemption 86-122; Exemption Application Nos. D-6537 and D-6546]

Exemption

The restrictions of section 406(a), 406 (b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Pension Plan of certain improved real property to the Apprenticeship Plan, which is a party in interest with respect to the Pension Plan; provided that the transaction is on terms at least as favorable to each Plan as could be obtained an arm's-length transaction between unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 25, 1986 at 51 FR 26779.

Written Comments: The Department received one written comment and no requests for a hearing. In the written comment received by the Department, the commentor expressed approval of the proposed transaction.

For further information contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Dynamic Warehouse and Trucking Co., Inc. Employees' Pension Plan; Dynamic Warehouse and Trucking Co., Inc. Employees' Profit Sharing Plan; Dynamic Ocean Services International, Inc. Employees' Profit Sharing Plan; Dynamic Air Freight Services, Inc. Employees' Profit Sharing Plan; and Dynapack Export Crating, Inc. Employee Profit Sharing Plan (collectively, the Plans) Located in Houston, Texas

[Prohibited Transaction Exemption 86-123; Exemption Application No. D-6617 through D-6621]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sales by the Plans of two parcels of improved real property to Mr. and Mrs. Alexander G. Arroyos, parties in interest with respect to the Plans, for cash in an amount not less than $450,000, provided that such amount is no less than the fair market value of the properties on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 24, 1986 at 51 FR 23000.

Notice to interested persons: The applicant informed the Department that the original letter providing notice to interested persons did not include a copy of the Notice of Proposed Exemption. However, the applicant has represented that proper notice was provided to all interested persons, with a copy of the Proposed Exemption, by August 12, 1986.

Interested persons were informed that they had until September 11, 1986, to comment or request a hearing with respect to the proposed exemption. No comments or hearing requests were received by the Department.

For further information contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Public Service Electric and Gas Company Payroll-Based Employee Stock Ownership Plan; the Public Service Electric and Gas Company Tax Reduction Act Employee Stock Ownership Plan; and the Public Service Electric and Gas Company Thrift and Tax Deferred Savings Plan (collectively, the Plans) Located in Newark, New Jersey

[Prohibited Transaction Exemption 86-124; Exemption Application No. D-6356, D-6357 and D-6358]

Exemption

The restrictions of sections 406(a) and 407(a) the of Act shall not apply to (1) the past receipt by the Plans of certain stock rights (the Rights) pursuant to a stock rights offering by the Public Service Electric and Gas Company (PSE&G), the sponsor of the Plans, to shareholders of record of PSE&G common stock on October 16, 1985; and (2) the temporary holding of the Rights by the Plans during subscription period.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 25, 1986 at 51 FR 26775.

Effective date: The effective date of this exemption is from October 16, 1985 until October 24, 1985.

Written comments: The applicant has advised the Department that the representation in paragraph #2 of the Notice of Proposed Exemption referring to the warrant card as a "security' is erroneous. The applicant states that the warrant card is not a security but is a certificate evidencing ownership of the Rights. In addition, paragraph #5 of the Notice of Proposed Exemption referred to Mr. William E. Scott, a member of the Board of Directors of First Jersey National Bank, as a director of PSE&G. The applicant states that Mr. Scott is no longer a director of PSE&G, effective April 15, 1986.

After consideration of the entire record, the Department has determined to grant the exemption.

For further information contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Sherwin-Williams Company Salaried Employees Retirement Plan (the Plan), Located in Cleveland, Ohio

[Prohibited Transaction Exemption 86-125; Exemption Application No. D-6379]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a series of loans, originated within a six-year period, by the Plan to the Sherwin-Williams Company, the sponsor of the Plan (the Employer), and its wholly owned subsidiaries; provided that all terms and conditions of such loans are at least as favorable to the Plan as the Plan could obtain in arm's-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 11, 1986, at 51 FR 25269.

Temporary Nature of Exemption

This exemption is effective as to loans originated within six years of the date on which this exemption is published in the **Federal Register.**

Written comments: The Department received five written comments to the proposed exemption and no requests for a hearing. Four of the written comments expressed objection to the proposed transaction without citing specific reasons for the objection. A fifth written comment expressed objection to the proposed exemption and cited three reasons: (1) The commentator expressed the view that the proposed exemption would allow the Employer to borrow up to twenty-five percent of the Plan's assets at the time of each loan and that there would be no limit on the amount of money which could be borrowed from the Plan; (2) The commentator cited the Employer's representation that it has been able to borrow funds from commercial lenders at rates below the prime rate and questioned why the Employer does not continue to borrow from such commercial lenders; and (3) The commentator also stated that due to recent bank failures, the use of irrevocable letters of credit as security for the loans poses a potential for increased risk to the Plan.

In response to these written comments, the Employer provided the following comments: (1) The Employer states that the commentator has a misunderstanding of the terms of the proposed loan transactions in that the credit agreement governing the proposed loans provides that at all times the aggregate amount of outstanding loans under the credit agreement could never be greater than the lesser of $65 million or twenty-five percent of the Plan's assets; (2) In response to the written comment relating to the Employer's representation of its ability to borrow funds from commercial lenders at rates below the prime rate, the Employer asserts that such ability is evidence of the Employer's creditworthiness and serves as further evidence that the proposed loans are in the best interests of the participants of the Plan; and (3) Finally, the Employer agrees with the commentator that the quality of a letter of credit as loan security is dependent upon the creditworthiness of the issuing bank, but the Employer points out that under the proposed arrangement the independent Loan Fiduciary will evaluate each proposed loan indvidually and will consider the financial soundness of the bank whose letter of credit is to be used as collateral for a particular loan.

After consideration of the entire record, the Department has determined to grant the exemption.

For further information contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fidciuary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fidiciary responsibility provisions of secton 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of October, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-23053 Filed 10-9-86; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-6461 et al.]

Proposed Exemption; National Training Fund Employee Benefit Pension Plan et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

National Training Fund Employee Benefit Pension Plan (the Plan) Located in St. Paul, MN

[Application No. D-6461]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed purchase by the Plan of a mobile welding trailer (the Trailer) from the Leasing Corporation America (LCA); (2) the lease (the Lease), through May, 1990, of the Trailer from the Plan to the National Training Fund for the Sheet Metal and Air Conditioning Industry (the Employer), a contributing employer to the Plan; and (3) the sale of the Trailer to the Employer at the end of the Lease, provided that the terms of the transactions are at least as favorable to the Plan as those between unrelated parties would be.

Summary of Facts and Representations

1. The Plan is a multiple employer defined benefit pension plan covering substantially all of the employees of the Employer and the National Energy Management Institute, Inc. (NEMI). The Plan has approximately 40 participants and assets of $1,060,600. The Employer is a collectively bargained training plan established by the Sheet Metal Workers' International Association (the Union) and the Sheet Metal and Air Conditioning Contractors National Association (the Trade Association) and governed by an eight-member Board of Trustees, four appointed by the Union and four by the Trade Association. The Plan's two trustee are also Trustees of the Employer. NEMI is a tax-exempt, non-profit corporation established and directed by the Union and the Trade Association which also provides training to employees.

2. The Employer currently owns five trailers similar to the Trailer which are used nationwide to provide welding training to sheet metal workers. The trailer has been leased, since May 1985, from LCA under a 60 month lease. The lease between LCA and the Employer is tructured as a five year loan at an interest rate of 16.49%, which amortizes the principal over the term of the lease. The Employer is paying $5,425.02 per month in rent with the right to purchase the Trailer at the end of the lease term for one dollar.

3. The applicant proposed that the Plan purchase the Trailer from LCA for the remaining principal due under the lease between LCA and the Employer and take LCA's place as the lessor of the Trailer on the same terms as the lease between LCA and the Employer. As of September, 1986 the remaining principal is $175,243.72. The Trailer's manufacturer, Howard and Smith, Inc., indicated that as of April 21, 1986, the Trailer would, if properly maintained, always be worth more than the principal balance due under the Lease. The payments under the Lease will represent an annual return of approximately 16.49% to the Plan. The Employer has committed to exercise the purchase option at the end of the Lease.

4. The Plan has retained NS&T Bank (the Bank), of Washington, DC., to act as investment manager in deciding whether to enter into the proposed transaction. The only connections the Bank has with the Plan, the Employer, the Union and the Trade Association are: (1) The bank is the depository bank for all employer contributions to national trust funds in the sheet metal industry, which funds are disbursed to each trust fund's won bank, which is Riggs Bank with respect to the Employer;' and (2) the Bank is a depository bank for the Union.

5. The Bank has examined the Plan and the proposed transaction. While the proposed transaction is relatively

illiquid, the Bank represents that the rate of return on the Lease makes the investment attractive and that it does not represent and imprudent concentration of funds in one assets.

6. The Plan has appointed Larry Mitchell, Esq., of Arnall, Goldman & Gregory of Washington, DC to act as independent legal counsel to the Plan for the Lease. Neither Mr. Mitchell nor his law firm have any prior association or affiliation with the Employer, the Union, the Trade Association, any related trust funds in the sheet metal industry as a whole. Mr. Mitchell will represent the Plan in the Lease and will take any actions necessary to protect enforce the Plan's rights.

7. In summary, the applicant represents that the transactions satisfy the criteria of section 408(a) of the Act because: (a) The lease will be on the same terms as that between LCA and the Employer; (b) the annual rate of return under the Lease will be 16.49%; and (c) the Trailer will represent less than 20% of the Plan's assets.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

St. Paul Radiology Profit Sharing Plan (the Plan) Located in St. Paul, MN

[Application No. D–64941]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the proposed purchase from Dr. Clifford G. Leach (Dr. Leach) by the segregated account (the Account) in the Plan of Dr. Leach of 6000 shares of common stock (the Stock) of Medical Imaging Centers of America, Inc. (MICA) for $19,500, provided that the price is no more than the fair market value of the Stock as of the date of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 61 participants and assets of $8,567,620. Keith W. Johnson, M.D. and Sheldon W. Damberg, M.D. are the Plan's trustees. The Plan permits participants to direct the investments of their accounts and Dr. Leach has elected to direct his Account's investments. The Account has assets of $281,852.

2. Dr. Leach received a warrant from MICA as compensation entitling him to purchase 6000 shares of the common stock of MICA for $1.67 per shares. Dr. Leach exercised the warrant in December, 1985, and now desires to sell the Stock to his Account.

3. MICA is a medical imaging services corporation. MICA is not affiliated with the Employer. Its common stock is publicly traded and the 3.9 million outstanding shares currently trade for approximately $7.25. The Stock, unlike the shares referred to in the previous sentence, may not be resold for a period of two years from December, 1985, under § 144 of the Securities Act of 1933. After December, 1987, there will be no restrictions on the sale of the Stock.

4. The Account currently owns 7500 shares of MICA stock, and Dr. Leach believes that it is a good investment for the Account. The Account has over $200,000 in cash or cash equivalents, so that this investment will not cause liquidity problems.

5. Robert L. Constant, of Donaldson, Lufkin & Jenrette, an independent stock brokerage firm, has appraised the fair market value of the Stock at $3.25 per share as or May 13, 1986, due to the two year restriction on disposition of the Stock. This price is equal to the price of MICA stock sold under the most recent private placement of such stock, which is also subject to the two year restriction.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The Stock will be purchased for its fair market value as determined by an independent, qualified party; (b) the purchase of the Stock will represent less than 10% of the Account's assets; and (c) Dr. Leach is the only Plan participant to be affected by the transaction and he desires that it be consummated.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Sunnyvale Medical Clinic, Inc., Employee Profit Sharing and Retirement Plan (the Plan) Located in Sunnyvale, CA

[Application No. D–6649]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed cash purchase of certain improved real property (the Property) by the Plan fron Sunnyvale Medical Building Company, a party in interest with respect to the Plan and (2) the proposed lease (the Lease) of the Property by the Plan to Sunnyvale Medical Clinic, Inc. (the Employer), provided that the terms and conditions of the transactions are at least as favorable to the Plan as those between unrelated parties would be.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 232 participants and assets of $14,550,000 as of December 31, 1985. The Plan's trustee (the Trustee) is Barclay's Bank of California, which is represented to be unrelated to the Employer and to have no other relationships with the Employer or any of its officers and directors.

2. The applicant is seeking an exemption to permit the Plan to acquire the Property and lease it to the Employer. The Property consists of a 15,000 square foot medical office building, a 1,400 square foot medical administration building and adjoining parking lots in Sunnyvale, CA. The Property serves as the Employer's place of business. The Property was appraised as of July 17, 1985, by Floyd D. Clevenger, MAI, SRPA and Lawrence E. Willis, ASA, SRPA, independent real estate appraisers in Santa Clara, CA. As of that date, the Property's fair market value was $3,400,000. This amount represents approximately 23.4% of the Plan's assets.

3. The Lease will be for ten years with two options to extend the Lease for five years each. The rent will be triple net and will be adjusted annually based on appraisals of the fair market rental value made by an independent real estate appraiser appointed by the Trustee who has at least five years full-time commercial real estate experience in the area. Messrs. Clevenger and Wills appraised the fair market rental value, as of July 17, 1985, as $28,216 per month.

4. The Trustee has examined the proposed transaction within the context of the Plan's investment portfolio and funding policy. The Trustee also reviewed the appraisal of the Property. The Trustee concluded that:

a. The overall value of the investment wills represent less than 25% of the total value of the Plan and thus will significantly contribute to the

diversification of the investments of the Plan in line with the state funding policy.

b. The Employer is a large, well established medical clinic, servicing a growing and diversified community. The staff and the scope of its services are expanding in line with its stated objectives. Its financial resources are significant and considered to be more than adequate to met its current and furture obligations.

c. The projected return to the Plan is above average and will provide a significant and well secured level of income for the foreseeable future, especially when compared to the returns currently available from alternative investments.

d. In addition to the rent, the Employer will be responsible for all expenses, such as insurance coverage, real estate taxes, repairs and maintenance of the Property.

e. An analysis of the various studies covering participant turnover and projected distribution amounts which have been made by the staff of the Employer with the assistance of the outside professional administrator of the Plan, indicates that this investment will not impair the ability of the Plan to meet its current and anticipated liquidity requirements.

f. In addition, the multiple uses for the Property, the Trustees' ability to terminate the Lease and void all future obligations related to the transaction as well as the alternative authority to sell, assign, or transfer the Plan's interest in the Property, and the "triple net" features of the Lease provide significant and appropriate safeguards of the interests of the participants.

g. An annual review of the Lease terms will be undertaken by the Trustee to insure that the rental values and other terms are at or better than the then current fair market values.

5. The applicant represents that the Trustee must approve any modifications or other actions made with respect to the Lease, including the exercise of the options to extend the Lease by the Employer.

6. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: (a) The Plan will pay no more than the fair market value for the Property; (b) the Employer will pay at least the Property's fair market rental value under the Lease; (c) the rental will be adjusted annually based on appraisals be qualified independent appraisers; and (d) the Trustee has reviewed the proposed transactions and has concluded that they are in the interests and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Brookwood Orthopedic Associates, P.C. Money Purchase Pension Plan (the Money Purchase Plan) and Brookwood Orthopedic Associates, P.C. Profit Sharing Plan (the Profit Sharing Plan; together, the Plans) Located in Brimingham, Alabama

[Application Nos. D–6666 & D–6667

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c) (2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b) (1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) a proposed loan by the Plans (the Loan) to Jones and Brackin Real Estate (the Partnership), and partnership which is a party in interest with respect to the Plans; and (2) the personal guarantees of the Loan by Burce Brackin, M.D. (Dr. Brackin) and Dewey H. Jones, M.D. (Dr. Jones), parties in interest with respect to the Plans; provided that all terms of the Loan are at least as favorable to the Plans as the Plans could obtain in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Money Purchase Plan is a defined contribution pension plan with 49 participants and total assets of $1,037,316.74 as of March 14, 1986. The Profit Sharing Plan is a defined contribution plan with 62 participants and assets of $689,789.18 as of March 14, 1986. The Plans are sponsored by Brookwood Orthopedic Associates, P.C. (the Employer), an Alabama professional corporation engaged in the parctice of orthopedic medicine in Birmingham, Alabama. The trustee of both Plans is the South Trust Bank of Alabama, N.A. (the Trustee), which represents itself to have substantial fiduciary experience under the Act. The Trustee also represents itself to be independent of the Employer, with total deposits and loans of the Employer constituting less than one percent of the Trustee's total loans and deposits. Drs. Jones and Brackin are officers, shareholders, directors, and employees of the Employer and participants in each of the Plans. Drs. Jones and Brackin have formed the Partnership as an Alabama general partnership for the purpose of owning a portion (the Condominium) of an office building located on a parcel of land (the Property) located on Second Street Northeast in Alabaster, Alabama. Drs. Jones and Brackin are requesting an exemption to permit the Plans to make the Loan to the Partnership to replace the short-term financing which was necessary for the Condominium's construction. The exemption is also requested to permit Drs. Jones and Brackin to personally guarantee the Loan.

2. Drs. Jones and Brackin are the sole partners in the Partnership, in which Dr. Jones owns a one-third interest and Dr. Brackin owns a to-thirds interest. The sole purpose of the Partnership is the construction and ownership of the Condominium on the Property. The Property is owned jointly by the Partnership, which has a sixty percent interest, and Ginger Alred, M.D. (Dr. Alred), and unrelated party who owns a forty percent interest. The Partnership and Dr. Alred have constructed an office building (the Building) on the Property which is owned sixty percent by the Partnership and forty percent by Dr. Alred. The Employer occupies the Condominium, leasing it from the Partnership under a lease (the Lease) which requires fair market rentals. The construction cost of the Building was $400,000, sixty percent of which, or $240,000, is attributable to the Condominum. Drs. Jones and Brackin seek the Loan to partially retire the short-term financing with which the Partnership funded the Condominium's construction. As of July 5, 1986, the Condominium had a fair market value of $372,000 according to Tom Cory, a certified real estate appraiser with the Blair Realty Company in Birmingham, Alabama.

3. The Loan is proposed as an individually directed investment by Drs. Jones and Brackin of their individual, segregated accounts in the Plans. The Loan is proposed in the amount of $200,000, but in no event will the funds for the Loan exceed twenty-five percent of the balance of any account at the time the Loan is made. Dr. Jones' accounts in the Plans will contribute forty percent of the funds for the Loan, or $80,000, and Dr. Brackin's accounts will contribute sixty percent, or $120,000. As of October 31, 1985, Dr. Brackin's account in the Money Purchase Plan had a balance of $292,221.43 and his account in the Profit Sharing Plan had a balance of

$201,629.43. As of October 31, 1985, Dr. Jones' account in the Money Purchase Plan had a balance of $273,269.16 and his account in the Profit Sharing Plan had a balance of $222,733.52. It is proposed that each of Dr. Jones' accounts in the Plans contribute $40,000 toward the Loan, that Dr. Brackin's Money Purchase Plan account contribute $70,000 and that Dr. Brackin's Profit Sharing Plan account contribute $50,000. The Loan will be for a term of ten years with an interest rate per annum equal to the Trustee's prime rate plus two percent, adjusted annually. The Loan will be repayable in equal monthly installments of principal and interest amortized over ten years. The Loan will be secured by a first mortgage on the Condominium in favor of the Plans. The Loan will also be secured by the personal guarantees of Drs. Jones and Brackin. Dr. Jones represents that he had a net worth of $1,356,000 as of December 31, 1985, and Dr. Brackin represents that he had a net worth of $1,525,500 as of October 31, 1985. The Loan will be further secured by the Partnership's assignment to the Plan of the Partership's right to receive all rentals paid by the Employer under the Lease. Drs. Jones and Brackin represent that the terms of the proposed Loan are at least equivalent to those of an arm's-length transaction between unrelated parties. John J. Burke, Private Banking Officer with the Trustee, represents that the Trustee would make a loan for the same amount under the same terms and at the same interest rate as now proposed for the Loan transaction.

4. The Trustee will monitor the Partnership's compliance with the Loan terms and enforce the terms of the Loan on behalf of the Plans, including making demand for timely payment, bringing suit or other appropriate action in the event of default and keeping appropriate records with respect to the Loan. The Trustee will ensure, on a continuing basis, that the value of the Loan collateral, the Condominium, remains at least 150 percent of the outstanding balance of the Loan at all times during the term of the Loan. In the event the appraised value of the Condominium falls below that level, the Trustee will require additional acceptable collateral to be posted by the Partnership so that the value of collateral securing the Loan remains at least 150 percent of the Loan's outstanding balance. George Caraway, Vice President and Trust Officer of the Trustee (Caraway), represents that he has examined and considered the proposed Loan and the entire investment portfolio of each accounts of Drs. Jones and Brackin and has determined that the Loan will be in the best interests of the Plans. Caraway represents that the proposed Loan will not impair the Plans' liquidity needs and that the proposed interest rate of the loan is equivalent to the rate which the Partnership would be charged by a commercial lender in an arm's-length transaction.

5. In summary, the applicant represents that the criteria for section 408(a) of the Act are satisfied in the proposed transaction for the following reasons: (1) The interest of the Plans for all purposes related to the Loan are represented by an independent fiduciary, the Trustee, which has determined that the Loan will be in the Plans' best interests and which will monitor and enforce the Employer's compliance with the Loan's terms; (2) The Loan is to be a directed investment of the segregated individual account of Drs. Jones and Brackin in the Plans, constituting less than twenty-five percent of the balance of each such account; (3) The Loan will be secured by a first mortgage on the Condominium and by the Partnership's assignment of its rights to receive rentals from the Employer; (4) The Loan will be further secured by the personal guarantees of Drs. Jones and Brackin, each of whom represents a net worth in excess of $1 million; (5) The Trustee will ensure that the value of collateral property securing the Loan remains at least one hundred fifty percent of the principal balance of the Loan at all times and will require additional collateral property in the event the Condominium's value should fall below that level; and (6) A private banking officer of the Trustee has determined that the Trustee would make a loan for the same amount under the same terms and at the same interest rate as proposed by Drs. Jones and Brackin.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

John D. Latendresse Money Purchase Pension Plan (the Plan) Located in Washington, DC

[Application No. D-6761]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale (the Sale) of a certain parcel of real property (the Property) by the Plan to John D. Latendresse, M.D. (Latendresse), a party in interest with respect to the Plan, provided that the consideration paid for the Property is not less than the greater of either $125,000 or the fair market value of the Property on the date of the Sale.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with total assets of $255,343 as of June 30, 1986. Latendresse is the only participant and fiduciary of the Plan as well as the sole owner of the sponsor of the Plan, John D. Latendresse, M.D., Professional Corporation (the Employer).[1] Latendresse has operated a practice of psychiatry for over thirty years in Washington, DC. In 1972, he incorporated his practice and had the Employer establish the Plan and a profit sharing plan to provide for his retirement benefits. Both these qualified plans received favorable letters of determination from the Internal Revenue Service and were subsequently amended and restated in accordance with applicable regulations under the Act to remain fully qualified.

2. On December 19, 1980, the Plan purchased the Property, an unimproved parcel of real property, located in Bethany Dunes, Bethany Beach, Sussex County, Delaware and shown on Sussex County Tax Map 1-34-9 as parcel #371. The Plan paid the purchase price of $40,000 for the Property with cash and a note and mortgage at 12 percent interest per annum for a term of five years. The note has been fully paid and the mortgage released. The current fair market value of the Property was determined as of December 6, 1985, to be $125,000 by C.E. Rupert Smith III of Hickman Real, Estate Bethany Beach, Delaware.

3. Latendresse proposes to purchase the Property from the Plan for a cash amount that will be the greater of either the sum of $125,000 or the fair market value of the Property on the date of the sale. It is represented by the applicant that the Sale will liquidate a substantial asset of the Plan and reduce the overall investment risk; permit a substantial profit to be realized from the asset when values have peaked; and invest the cash realized for the Sale in revenue producing assets.

[1] Since Latendresse is the sole owner of the sponsor of the Plan and the only participant, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria for an exemption under section 4975 of the Code because (a) the Sale will be a one-time transaction for cash with no expenses incurred by the Plan; (b) the Plan will sell the Property at its fair market value as determined by an independent qualified appraiser; (c) the Plan will be able to avoid any future expenses or losses that could be incurred by owning the Property; and (d) the Plan will be able to invest the proceeds from the Sale in income producing assets.

Notice to Interested Person: Because Latendresse is the sole participant of the Plan and is the only shareholder of the Employer, it has been determined by the Department that there is no need to distribute the notice of pendency to interested persons. Comments and rquests for hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

West End Studios, Inc., Aspen Graphics, Inc. Profit Sharing Plan (the Plan) Located in Los Angeles, California

[Application No. D–6470]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale by the Plan for cash of certain real property (the Real Property) to Aspen Graphics, Inc., the Plan sponsor (the Plan Sponsor), and to the assumption by the Plan Sponsor of all obligations under an existing trust deed on the Real Property, provided that the price received for the Real Property is not less than the greater of its fair market value on the date of sale or the price originally paid by the Plan.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with ten participants as of October 1, 1985 and total assets of $471,920, as of June 27, 1986. The Plan sponsor is Aspen Graphics, Inc., a commercial printing firm doing business in Los Angeles, California. The Plan's trustees are Thomas Lippert and Judith Libbert, who together are 100% shareholders of the Plan Sponsor.

2. On June 15, 1981, the Plan purchased the Real Property, a resort condominium unit located in Mammoth Lakes, California, for $315,000 from Tennis Village Condominium, an unrelated third party, with $116,295 in cash and a mortgage for the remainder in favor of Security Pacific National Bank, an unrelated third party.[2] Because of the popularity of the Mammoth Lakes area as a vacation and ski resort, the trustees of the Plan expected to derive substantial rental income from the Real Property.

3. However, in June, 1982, the United States Geological Survey (USGS) announced that a volcanic hazard existed in the area. Although the USGS announced in August, 1984, that the swarms of earthquakes which had caused the alarm had subsided, the real estate market has declined significantly and the rental income generated by the Real Property has been far below the Plan's original expections. In fact, the Real Property generated only $18,519 in rent from unrelated persons, during the period 1982–1985. The applicant represents that there has been no use of the Real Property by parties in interest as defined in section 3(14) of the Act.

4. The Real Property was appraised on January 15, 1986, by H.L. Bryan, Jr., owner of High Sierra Properties, an independent real estate appraisal and construction enterprise in Mammoth Lakes, California. The appraisal concluded that the fair market value of the Real Property, as of January 15, 1986, was $198,000. The applicant represents that he has been advised by area real estate brokers that it will take seven to ten years for the Real Property to recover its 1981 value.

5. The Plan Sponsor proposes to purchase the Real Property from the Plan for the greater of its fair market value as of the date of sale or the price originally paid by the Plan, and to reimburse the Plan for all expenses over and above the original purchase price paid by the Plan, in connection with the acquisition and holding of the Real Property, including, but not limited to, taxes, common grounds fees, and maintenance expenses. As of the end of 1985, the common grounds fees alone totalled $12,722. The Plan Sponsor will assume all obligations under the existing trust deed, which had a principal balance of $198,195 as of the June 27, 1986, and will pay the Plan the remainder in cash. The Plan will incur no costs with respect to the proposed transaction. The applicant represents that the sale by the Plan to the Plan Sponsor at a price above the current fair market value of the Real Property will not result in a contribution to the Plan exceeding the limitations set forth in section 415(c) of the Code.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The proposed sale of the Real Property will be a one-time transaction for cash; (b) the Plan will be relieved of all obligations under the existing trust deed; (c) the Plan will be able to invest the proceeds from the sale in income producing assets; (d) the Plan will be protected from the decrease in the value of its assets due to the decline in value of the Real Property; (e) the Plan will be reimbursed by the Plan Sponsor for all expenses it has incurred in connection with the acquisition and holding of the Real Property; and (f) no expenses will be incurred by the Plan with respect to the proposed sale.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan's either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Defined Benefit Plan of Linc Handley, Inc. (the Plan) Located in Soledad, California

[Application No. D–6592]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the Plan of several promissory notes

[2] In this proposed exemption, the Department expresses no opinion as to whether the acquisition by the Plan of the Real Property violated any provisions of Part 4 of Title I of the Act.

(the Notes) secured by first deeds of trust from Linc Handley, Inc. (the Employer), the Plan sponsor, provided the purchase prices for the Notes are no more than the fair market value of the Notes on the date of sale.[2]

Summary of Facts and Representations

1. The Plan is a defined benefit plan with two participants, the Handleys. As of May 14, 1986, the assets of the Plan were $514,565. Mr. Handley is the Plan trustee and the sole shareholder of the Employer.

2. The applicant represents that the Notes represents four loans made from the Employer to three unrelated parties in connection with the sales of real property. The Notes are secured by first deeds of trust on the properties involved. The Notes are paid in monthly installments and have been paid in a timely manner.

3. Two of the Notes were executed by Frederick H. Heblon and Rebecca E. Wallo (the Heblon Notes) in an aggregate amount of $80,000 at 14½% annual interest in June 20, 1982. The Heblon Notes are due in June, 1987, with a provision allowing an extension of the Heblon Notes for an additional five years. The interest rate for the extended period will be the higher of two percentage points below the prime rate or 10%. The outstanding balance on the Heblon Notes was $79,443 as of March 5, 1986. The Heblon Notes are secured by a first deed of trust for a house in Capitola, California. This property has been appraised by Patti Higgason, a realtor with Stevens Creek Realty, Inc. of Scotts Valley, California, which the applicant represents is independent of the Handleys and the Plan sponsor. As of April 2, 1986, the appraised value of the house was $139,000, approximately 175% of the outstanding loan balance.

4. The third Note was executed by John Paul and L. Wanda Sue Strickland (the Strickland Note) on June 18, 1982 for $50,000 at 12% annual interest. The Strickland Note is due on February 15, 1993. The outstanding balance on the Strickland Note was $28,008 as of March 11, 1986. The Strickland Note is secured by a first deed of trust on a house in Greenfield, California. This property was appraised by Velton Tidwell of the Henry Doyle Agency, a realtoral in Greenfield, California, which the applicant represents is independent of the Handleys and the Plan sponsor. As of April 8, 1986, the appraised value of this house was $77,000, approximately 275% of the outstanding loan balance.

5. The fourth note was executed by Patricia J. Case (the Case Note), on May 13, 1982, for $60,000 at 12% annual interest. Interest only payments of $600 per month are being made until the Case Note is due and payable in full on May 14, 1992. The Case Note is secured by a first deed of trust on a house in Capitola, California. This house was appraised by Patti Higgason of Stevens Creek Realty as having a value of $121,000 as of May 23, 1986, which represents approximately 200% of the loan amount.

6. Charles B. Hawley, an independent real estate and mortgage investment consultant located in Monterey, California, appraised the Notes as of July 21, 1986. Mr. Hawley represents that the Heblon Notes have a fair market value of $50,751.42, the large discount due to time and uncertainties of the extension periods. The Strickland Note ws appraised at $23,150.84 and the Case Note at $50,935.10. The total purchase price to be paid by the Plan for the Notes would therefore be $124,837.36, representing approximately 24.2% of the Plan's assets. The total payment on the Notes is $24,981.48 annually.

7. The applicant represents that the Notes will represent secure, high-yielding investments for the Plan. The payments on the Notes have been timely and the Notes are all adequately secured should the obligors default and the Plan foreclose on the collateral.

8. The applicant represents that there are no other participants or beneficiaries of the Plan, and that if other employees do become eligible to participate in the Plan in the future, a separate but identical plan will be established for them.

9. In summary, the applicant represents that the proposed transaction satisifes the statutory criteria because: (a) The Notes represents secure, high-yielding investments; (b) the Notes are adequately secured; (c) the Notes represent less than 25% of the Plan's assets; and (d) Mr. Handley, the Plan's trustee, has determined that the transaction is in the Plan's interests and desires that it be consummated.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan ; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representatives contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of October 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86–23054 Filed 10–9–86; 8:45 am]

BILLING CODE 4510–29–M

[2] Because Lincoln Handley (Mr. Handley), the sole shareholder of the Employer, and Kathleen Handley, his wife, are the sole Plan participants, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Commission Meeting

October 3, 1986.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby

given of a public meeting of the National Commission for Employment Policy at the Crystal City Sheraton Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202.

Dates: Thursday, October 30, 1986—8:00 a.m. to 5:00 p.m.; Friday, October 31, 1986—8:00 a.m. to 5:00 p.m.

Status: The meeting will be open to the public.

Matters to be discussed: Commission members will discuss the reseach priorities and outreach activities of the Commission for the next program year, and an orientation session will be held for newly appointed Commissioners.

FOR FURTHER INFORMATION CONTACT: Mr. Robert V. Mahaffey, National Commission for Employment Policy, 1522 K Street NW., Suite 300, Washington, DC 20005, 202/724–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97–300). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. Handicapped individuals wishing to attend should contact Kathy McMichael of the Commission staff so that appropriate accommodations can be made.

Copies of the Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's offices, 1522 K Street NW., Suite 300, Washington, DC 20005.

Signed this 3rd Day of October 1986.

Scott W. Gordon,

Director.

[FR Doc. 86–23040 Filed 10–9–86; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held Tuesday, November 18, 1986. The meeting will be held at the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

a. Opening remarks.

b. Administrative remarks.

c. Briefings on industry and government activities.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692–9274 or write the Manager, National Communications System, Washington, DC 20305–2010.

Charles F. Noll,

Captain, U.S. Navy, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 86–23016 Filed 10–9–86; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Council on the Humanities; Meeting

October 6, 1986.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on November 6–7, 1986.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out her functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue NW., Washington, DC. A portion of the morning and afternoon sessions on November 6, 1986, will not be open to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on November 6, 1986, will be as follows:

Committee Meetings

(Open to the Public)

8:30 a.m.–9:30 a.m.
- Coffee for Council Members—Room 526

9:30 a.m.–10:30 a.m.
- Committee Meetings—Policy Discussion
- Education Programs—Room M–14
- Fellowship Programs—Room 315
- General Programs—Room 415
- Research Programs—Room 316–2
- State Programs—Room M–07 East

10:30 a.m. until adjournment
- (Closed to the Public for the reasons stated above)—Consideration of specific applications

(Open to the Public)

Policy Discussion

3:00 p.m.–3:30 p.m.
- Challenge Grants—Room 430
- Preservation Grants—Room M–07 West

3:30 p.m. until adjournment
- (Closed to the Public for the reasons stated above)—Consideration of specific applications

The morning session on November 7, 1986, will convene at 9:00 a.m., in the 1st Floor Council Room, M–09, and will be open to the public.

The agenda for the morning session will be as follows:

(Coffee for Staff and Council members attending meeting will be served from 8:30 a.m.–9:00 a.m.)

Minutes of the Previous Meeting—Reports

A. Introductory Remarks

B. Introduction of New Staff

C. Contracts Awarded in the Previous Quarter

D. Final Fiscal Year Reports: Applications; Matching; and Obligations

E. Fiscal Year 1987 Appropriations

F. NEH Policy Regarding Eligibility of Institutions and Individuals with Outstanding Financial Obligations

G. Committee Reports on Policy and General Matters
1. Education Programs
2. Fellowship Programs
3. Preservations Grants
4. Research Programs
5. General Programs
6. State Programs
7. Challenge Grants
8. Jefferson Lecture

H. Emergency Grants and Actions Departing from Council Recommendation—Approvals

The remainder of the proposed meeting will be given to the consideration of specific applications

(closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86–22982 Filed 10–9–86; 8:45 am]

BILLING CODE 7536–01–M

Humanities Panel Meeting; Change

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Change in meeting notice.

This amends the notice of Humanities Panel meetings to be held on October 27–28, 1986 and October 30–31, 1986 at the National Endowment for the Humanities, Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506, which was published in the **Federal Register** on September 29, 1986 on page 34511. The description of the program for each panel meeting is amended to read as follows:

Program

This meeting will review applications submitted for Humanities Projects in Libraries and Public Humanities Projects, Division of General Programs, for projects beginning after April 1, 1987.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86–22983 Filed 10–9–86; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Waste Management; Notice of Meeting

The ACRS Subcommittee on Waste Management will hold a meeting on October 30 and 31, 1986, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, October 30, 1986—8:30 a.m. until the conclusion of business

Friday, October 31, 1986—8:30 a.m. until the conclusion of business.

The Subcommittee will review: (1) The NRC Staff's review of DOE's Final Environmental Assessments for the five nominated geologic repository sites, (2) the BWIP (Hanford) site, including issues that have been raised pertaining to that site, (3) assessing compliance with the EPA Standard, (4) Rulemaking conforming Part 60 to the EPA Standard, (5) Seismo-Tectonic Generic Technical Position (GTP), (6) overview of LLW program, FY 87 Budget for Staff and Technical Assistance programs, and status of long-range planning, (7) status of the States' implementation of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPPA), (8) status of alternatives to shallow land burial, (9) safety assessment of alternatives to shallow land burial, and (10) status of the NRC waste package corrosion program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff members, Mr. Owen S. Merrill (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 6, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–23659 Filed 10–9–86; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 402–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 3.50 and is entitled "Guidance on Preparing a License Application to Store Spent Fuel and High-Level Radioactive Waste." The guide is being developed to present a format acceptable to the NRC staff for submitting the information required by 10 CFR Part 72 in an application for a license to store spent fuel or high-level radioactive waste.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both the draft guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Comments will be most helpful if received by December 1, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently

being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 6th day of October 1986.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 86-23057 Filed 10-9-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 123 and 105 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to the Baltimore Gas and Electric Company (the licensee), which revised the Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (the facility), located in Calvert County, Maryland. The amendments were effective as of the date of their issuance.

The amendments change the Technical Specification (TS) 3/4.8.1 as follows: (1) TS 3.8.1.1.b limiting condition for operation is modified to reflect that an individual day fuel tank and separate fuel transfer pump is required for each diesel generator and that the two diesel generators share a common fuel storage system consisting of two independent storage tanks and, (2) TS 3.8.1.1 will incorporate a new Action Statement "f" that will permit continued operation of up to 72 hours with one Diesel Fuel Oil Storage Tank inoperable and requires an alternate 8000 gallon fuel supply onsite during this period. Action Statement "f" is not applicable to an inoperable #21 Diesel Fuel Oil Storage Tank from April 1 through September 30 nor is it applicable for two inoperable Diesel Fuel Oil Storage Tanks. Action Statement "e" is applicable for these conditions.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on May 20, 1986 (51 FR 18519). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action significantly beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973.

For further details with respect to the action see (1) the application for amendments dated April 14, 1986 as supplemented July 24, 1986, (2) Amendment Nos. 123 and 105 to Facility Operating License Nos. DPR-53 and DPR-69, (3) the Commission's related Safety Evaluation dated and (4) the Environmental Assessment dated September 8, 1986. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland, this 6th day of October, 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directoate #8 Division of PWR Licensing-B.

[FR Doc. 86-23058 Filed 10-9-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1013]

Advisory Committee on Oceans and International Environmental and Scientific Affairs; Closed Meeting

The Department of State's Advisory Committee on Oceans and International Environmental and Scientific Affairs will meet at 8:15 a.m. on Thursday, October 30, 1986 in Room 1408 of the Department of State, 22d and C Streets NW., Washington, DC in a session which will not be open to the public. As this session will include discussion of classified material and issues which are the subjects of ongoing meetings and negotiations with respect to nuclear energy and nuclear safety, it will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in current and future negotiations. The meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12356.

Requests for further information on the meeting should be directed to Thomas J. Wajda of OES/STS, Room 4329, Department of State. He may be reached by telephone on (202) 647-2764.

Dated: October 3, 1986.

John D. Negroponte,

Assistant Secretary.

[FR Doc. 86-23014 Filed 10-9-86; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is

requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicles, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes November 13, 1986.

ADDRESS: Comments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9669-N	Pesco, Inc., Mills, WY	49 CFR 173.110(c)(1), 173.80(b), (c)	To ship charged well casing jet perforating guns with detonators and arrest device attached. (Modes 1, 3.)
9670-N	Hercules Incorporated, Wilmington, DE	49 CFR 173.65(j)	To allow drums containing nitroguanidine, Class A explosives, to be marked "HIGH EXPLOSIVES—DANGEROUS" on their side instead of both ends. (Mode 1.)
9671-N	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.302	To ship non-liquefied ethylene, classed as flammable gas, in DOT Specification 4BA240 cylinders. (Mode 1.)
9672-N	Stauffer Chemical Company, Westport, CT	49 CFR 173.337-11(c)	To authorize shipment of metal alkyl solutions, n.o.s., classed as a flammable liquid, in DOT Specification MC-331 cargo tanks which will be constructed without the required remote self-closing valves. (Mode 1.)
9673-N	Mauser Packaging, Ltd., New York, NY	49 CFR Part 173	To manufacture, mark and sell fiber drums not to exceed 250 liter capacity, comparable to DOT Specification 21C, except for the top head which is constructed of 0.48 mm gauge steel, for shipment of those commodities authorized in DOT 21C fiber drums. (Modes 1, 2, 3.)
9674-N	General Battery Corporation, Reading, PA	49 CFR 173.154	To authorize shipment of lead peroxide, classed as an oxidizer, in the capacity of formed positive plates for storage batteries, contained in specially designed packaging. (Mode 1.)
9675-N	Surpass Chemical Company, Inc., Albany, NY.	49 CFR 172.301(a)	To authorize shipment of approximately 100,000, five gallon capacity DOT Specification 34 drums containing hyprochlorite solution, classed as a corrosive material which are inadvertenly marked NA 1791 rather than the required UN 1791. (Mode 1.)
9676-N	EM Science, Cincinnati, OH	49 CFR 173.119(b)(4), 178.205	To authorize shipment of certain flammable liquids contained in four inner glass bottles or PVC coated glass bottles of 1 gallon capacity each, overpacked in a fiberboard carton comparable to DOT Specification 12B65 except for handholes. (Mode 1.)
9677-N	Allied Universal Corporation, Miami, FL	49 CFR 173.263	To authorize shipment of hydrochloric acid, classed as corrosive material, in one gallon capacity polyethylene containers overpacked not to exceed 60 gallon per one specially designed heavy-wall polyethylene cart. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 6, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-22980 Filed 10-9-86; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become Party to an Exemption

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing a public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes October 30, 1986.

ADDRESS: Comments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No. and applicant	Renewal of exemption
1479-X—Allied Chemical, Morristown, NJ (See Footnote 1)	1479
3187-X—Silor Optical of Florida, Inc., St. Petersburg, FL	3187
4575-X—Union Carbide Corporation, Danbury, CT	4575
4575-X—Rocan, Inc., Wichita, KS	4575
4631-X—Nitrochem Energy Corporation, Biwabik, MN	4631
5248-X—Static Control Systems Division/3M, New Brighton, NM	5248
6267-X—Bio-Lab, Incorporated, Conyers, GA	6267
6296-X—Platte Chemical Company, Fremont, NE	6296
6349-X—Union Carbide Corporation, Danbury, CT	6349
6434-X—Rhone-Poulenc Inc., Monmouth Junction, NJ	6434
6472-X—Morton Thiokol, Inc., Ogden, UT	6472
6484-X—Dow Chemical Co., Midland, MI	6484
6484-X—ANGUS Chemical Company, Northbrook, IL	6484
6874-X—Mitsui and Co., (U.S.A.), Inc., New York, NY	6874
6922-X—Halocarbon Products Corporation, Hackensack, NJ	6922
7466-X—Firmenich Incorporated, Princeton, NJ	7466
7517-X—Trinity Industries, Inc., Dallas, TX	7517
7574-X—Remmers Aviation, Inc., Burlington, IA	7574
7846-X—Union Carbide Corporation, Danbury, CT	7846
7873-X—Bromine Compounds, Limited, Beer Sheva, Israel	7873
8051-X—Mauser Packaging, Ltd., New York, NY (See Footnote 2)	8051
8063-X—Taylor-Wharton Division of Harsco Corporation, Indianapolis, IN	8063
8094-X—Milport Chemical Company, Milwaukee, WI	8094
8119-X—BJ-Titan Services, Houston, TX	8119
8451-X—U.S. Department of Energy, Washington, DC	8451
8451-X—Unidynamics/Phoenix, Inc., Phoenix, AZ	8451
8472-X—Ohmart Corporation, Cincinnati, OH	8472

Application No. and applicant	Renewal of exemption
8477-X—Mobay Chemical Corporation, Pittsburgh, PA	8477
8480-X—The Gillette Company, Boston, MA	8480
8526-X—National Starch and Chemical Corporation, Bridgewater, NJ	8526
8554-X—Mesabi Powder Company Hibbing, MN	8554
8554-X—Austin Powder Company, Cleveland, OH	8554
8554-X—Altas Powder Company, Dallas, TX	8554
8580-X—Priority Air, Incorporated, Sanford, FL	8580
8748-X—Battelle, Pacific Northwest Laboratories, Richland, WA	8748
8831-X—Teledyne Energy Systems, Timonium, MD	8831
8862-X—ABERCO Inc., Seabrook, MD	8862
8927-X—HTL Industries, Inc., Duarte, CA	8927
8939-X—Hollice Clark Truck Fabrication, Inc., Odessa, TX	8939
8942-X—Poly Processing Company, Inc., Monroe, LA	8942
8952-X—Trojan Corporation, Salt Lake City, UT	8952
9181-X—Honeywell, Inc., Horsham, PA (See Footnote 3)	9181
9197-X—Greif Bros. Corp., Springfield, NJ	9197
9289-X—Stauffer Chemical Company, Westport, CT (See Footnote 4)	9289
9298-X—Eli Lilly Company, Indianapolis, IN	9298
9316-X—Fluoroware, Inc., Chaska, MN	9316
9323-X—U.S. Department of Defense, Falls Church, VA	9323
9326-X—Carbonaire, Inc., Palmerton, PA	9326
9331-X—Olin Chemicals, Stamford, CT	9331
9340-X—Pioneer Plastics & Services Co., Ltd., Brampton, Ont., Canada	9340
9513-X—American Cyanamid Company, Wayne, NJ (See Footnote 5)	9513

[1] To revise and update exemption to include additional driver qualifications requirements; change placard I.D.
[2] To modify exemption to permit a thinner sidewall in a limited and specific location of polyethylene drums.
[3] To authorize an additional lithium battery device similar to the one presently approved.
[4] To renew and to authorize metal or polysthylene portable tanks with a volumetric capacity from 110 gallons to 250 gallons.
[5] To authorize an increase in the active ingredient of an organic phosphate compound, from 5% to 15%, shipped in a non-DOT specification pneumatic bulk trailer.

Application No. and applicant	Parties to exemption
6267-P—Chem-Tab Chemical Corporation, Carson, CA	6267
6530-P—Scott Environmental Technology, Inc., Plumsteadville, PA	6530
7052-P—Lear Siegler, Inc., Grand Rapids, MI	7052
7607-P—Smith & Deninson, Hayward, CA	7607
7654-P—Tennessee Eastman Company, Kingsport, TN	7654
8453-P—Austin Powder Company, Cleveland, OH	8453
8453-P—El Dorado Chemical Company, St. Louis, MO	8453
8480-P—Braun, Inc., Lynnfield, MA	8480
8554-P—Piedmont Explosives, Inc., Statesville, NC	8554
9066-P—Volvo North America Corporation, Rockleigh, NJ	9066
9130-P—Calgon Corporation, St. Louis, MO	9130
9157-P—Montana Sulphur & Chemical Company, Billings, MT	9157
9271-P—CSX Transportation, Inc., Jacksonville, FL	9271
9275-P—Liz Claiborne Cosmetics, North Bergen, NJ	9275
9388-P—Gulf Central Storage & Terminal Company, Tulsa, OK	9388
9485-P—Kaw Valley Inc., Leavenworth, KS	9485
9610-P—Remington Arms Company, Inc., Bridgeport, CT	9610
9632-P—Eurotainer, Paris, France	9632

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 6, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-22981 Filed 10-9-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

[Number 106-09]

Electronic Funds and Securities Transfer Policy—Message Authentication and Enhanced Security; Order

Dated: October 2, 1986.

By virtue of the authority vested in me as Secretary of the Treasury, the following policy is hereby mandated in order to prevent the undetected, deliberate, or inadvertent unauthorized manipulation, modification, or loss of Electronic Funds Transfer (EFT) data.

1. It is Treasury policy that EFT transactions be properly authenticated. Authentication measures must conform to American National Standards Institute (ANSI) Standard X9.9, "American National Standard for Financial Institution Message Authentication" or equivalent authentication technique. This standard established a universally applicable method to authenticate financial messages, including fund transfers, letters of credit, security transfers, loan agreements, and foreign exchange contracts which are transmitted by electronic means.

2. This policy shall be applied to Federal systems which originate, transmit, relay, receive, or process Federal Government EFT transactions.

3. The Fiscal Assistant Secretary is delegated the authority to execute the provisions of this order within the Department of the Treasury and throughout the Federal Government. This authorization may be redelegated.

4. The Assistant Secretary of the Treasury (Management) is responsible for providing technical support, to include: Evaluation of proposed security techniques; maintenance of a list of approved authentication and other security devices; providing key materials for fielded systems; and providing consulting services within the Department as required.

James A. Baker III,

Secretary of the Treasury.

[FR Doc. 86-23061 Filed 10-9-86; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

Removal of Prohibition on Importation of Tuna and Tuna Products From Costa Rica

AGENCY: Customs Service, Treasury.

ACTION: Notice of removal of prohibition.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 (the "Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Costa Rica no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is removed.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Commercial Compliance Division (202-566-5307).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976(16 US.C. 1801, *et seq.*), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the U.S., while fishing in water beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the U.S. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On April 24, 1986, a notice was published in the **Federal Register** (51 FR

15571), advising that under section 205(a)(4)(C) of the Act, on March 10, 1986, the Secretary of State certified to the Secretary of the Treasury that a U.S. fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., was seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the U.S. Under the authority of section 205 (b) and (c) of the Act, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohibition no longer prevailed.

On August 29, 1986, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products from Costa Rica no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is removed.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings. However, personnel from other offices participated in its development.

Dated: September 26, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-23049 Filed 10-9-86; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

[Delegation Order No. 77 (Rev. 20)]

Delegation of Authority; Tax Examiners

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to provide that there is delegated to each Tax Examiner, grade GS-6 and above, in the Service Center Collection Branch, the authority to sign and send to the taxpayer by registered or certified mail any notice of deficiency granted by section 6212 of the Internal Revenue Code of 1954. The text of the delegation order appears below.

EFFECTIVE DATE: September 22, 1986.

FOR FURTHER INFORMATION CONTACT: Sam Pagnotta, OP:C:O, 1111 Constitution Avenue NW., Room 7539, Washington, DC 20224, Telephone Number: (202) 566-4993.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

S.C. Pagnotta,

Associate Director, Office of Field Operations.

Order No. 77 (Rev. 20)

Effective date: 9/22/86.

Authority To Issue Notices of Deficiency

1. The authority granted to the Commissioner of Internal Revenue and District Directors, by 26 CFR 301.7701-9, 26 U.S.C. 6212, 26 CFR 301.6212-1, Treasury Department Order 150-37, and 26 CFR 301.6861-1 to sign and send to the taxpayer by registered or certified mail any notice of deficiency is hereby delegated to the following officials:

a. Chief Counsel;

b. Regional Counsel;

c. Regional Directors of Appeals;

d. Chiefs and Associate Chiefs of Appeals Offices;

e. Appeals Team Chiefs as to their respective cases;

f. Service Center Directors;

g. Assistant Commissioner (International);

h. Reviewers (grade GS-12 and higher) in Employee Plans and Exempt Organizations Divisions;

i. Revenue Agents, and Tax Auditors (Reviewers) (grade GS-6 and higher), in the Examination Divisions and the Office of Compliance, Assistant Commissioner (International);

j. Revenue Agents (grade GS-11 and higher) in streamlined districts Examination Sections and/or groups;

k. Chiefs of Correspondence and Processing Sections;

l. Examination Tax Examiners/ Revenue Agents (grade GS-6 and higher) in Service Center Compliance Divisions;

m. Tax Examiners (grade GS-5 and higher) in Service Center Processing and Tax Accounts Divisions;

n. Tax Examiners (Reviewers) (Grade GS-6 and higher), Quality Assurance and Management Support Division, Service Centers; and

o. Tax Examiners (grade GS-6 and higher), in Service Center Collection Branch.

2. Delegation Order No. 77 (Rev. 19), effective May 12, 1986, is superseded.

Dated: September 22, 1986.

Approved:

James I. Owens,

Deputy Commissioner.

[FR Doc. 86-23025 Filed 10-9-86; 8:45 am]

BILLING CODE 4830-01-M

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective October 20, 1986.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, PM:HR:H:E, Room 3515, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone No. (202) 566-4633 (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Assistant Commissioners, Regional Commissioners, and senior executives in the Office of the Commissioner are as follows:

Philip E. Coates, Associate Commissioner (Operations)
M. Eddie Heironimus, Associate Commissioner (Data Processing)
Jean Owens, Deputy Chief Counsel
John M. Rankin, Jr., Assistant Commissioner (Inspection)

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 86-23026 Filed 10-9-86; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 197
Friday, October 10, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:57 a.m. on Tuesday, October 7, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 8, 1986.

Federal Deposit Insurance Corporation.

Margret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-23128 Filed 10-8-86; 2:54 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, October 7, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Far West Bank, Provo, Utah, an insured State nonmember bank, for consent to merge, under its charter and title, with United Thrift and Loan Company, Orem, Utah, a nonisured industrial loan company, and for consent to establish the sole office of United Thrift and Loan Company as a branch of the resultant bank.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: October 7, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-23129 Filed 10-8-86; 2:55 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, October 7, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of an asset acquired by the Corporation from The First National Bank of Midland, Midland, Texas (Case No. 46,711-L).

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: October 7, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-23130 Filed 10-8-86; 2:56 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:23 p.m. on Friday, October 3, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Accept the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for the purchase of certain assets of and the assumption of the liability to pay deposits made in Columbia Community Bank, Hermiston, Oregon, an insured bank scheduled for closing later in the day by the Oregon State banking department, or (2) in the event no acceptable bid for a purchase and assumption transaction is submitted, accept the highest acceptable bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type transaction is submitted, make funds available for the payment of the insured deposits of the closed bank.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 7, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-23094 Filed 10-8-86; 12:19 pm]

BILLING CODE 6714-01-M

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FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10:00 a.m., Wednesday, October 15, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23067 Filed 10-8-86; 8:59 am]

BILLING CODE 6210-01-M

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SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 13, 1986:

A closed meeting will be held on Wednesday, October 15, 1986, at 2:30 p.m. An open meeting will be held Thursday, October 16, 1986, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, October 15, 1986, at 2:30 p.m., will be:

Withdraw institution of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive action.
Regulatory matter regarding self regulatory organization.

The subject matter of the open meeting scheduled for Thursday, October 16, 1986, at 10:0 a.m., will be:

1. Consideration of whether to propose for comment: (a) New Rule 430A under the Securities Act of 1933 and a related amendment to Item 512 of Regulation S-K, which, if promulgated, will eliminate the filing of many pricing amendments by permitting registration statements to be declared effective without disclosing the price, certain price-related information and information concerning the underwriting syndicate; (b) amendments to Rules 424(b) and 497 to require more immediate filing of the prospectus where the procedure outlined in proposed Rule 430A has been employed; and (c) other amendments to Rule 424 which would be applicable to other prospectuses and would eliminate unnecessary filings, provide for the classification of prospectuses according to the nature of the information being modified or added, and reduce the filing period for prospectuses used after the effective date. For further information regarding Rule 430A, and amendments to Item 512 and Rule 424, please contact Mauri L. Osheroff, at (202) 272-2573 or Abigail Arms at (202) 272-2589. For information regarding the application of these proposals to investment companies and the amendments to Rule 497, please contact Thomas S. Harman at (202) 272-2107.

2. Consideration of whether to issue a release adopting amendments to Securities Exchange Act Rule 15c3-1 that would expand the types of instruments that could be used to create a hedged position in highly rated corporate debt securities. The amendment would also lower the deductions from net worth in arriving at net capital for hedged corporate debt securities positions and would redefine the criteria for determining whether the maturities of two offsetting positions are close enough to consider the combined corporate debt securities positionas hedged for purposes of Rule 15c3-1. For further information, please contact Michael P. Jamroz at (303) 272-2398.

3. Consideration of whether to approve rule proposals submitted by the American Stock Exchange, Inc. and the New York Stock Exchange, Inc. Both proposals would ease restricitons imposed on an approved person affiliated with a specialist if an adequate "Chinese Wall" were established between the approved person and the specialist. For further information, please contact Sharon Lawson at (202) 272-2910 or Ellen K. Dry at (202) 272-2843.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any , matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272-2092.

Jonathan G. Katz.

Secretary

October 7, 1986.

[FR Doc. 86-23095 Filed 10-8-86; 12:19 pm]

BILLING CODE 8010-01-M

federal register

Friday
October 10, 1986

Part II

Department of Health and Human Services

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits and Supplemental Security Income for the Aged, Blind and Disabled; Payments for Vocational Rehabilitation Services; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits and Supplemental Security Income for the Aged, Blind, and Disabled; Payments for Vocational Rehabilitation Services

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: These proposed rules implement section 11 of Pub. L. 98–460 (the Social Security Disability Benefits Reform Act of 1984). This legislation adds two new provisions under which the Social Security Administration (SSA) will pay vocational rehabilitation (VR) agencies (includes both State VR agencies and alternate participants) for the costs of VR services provided to disabled persons receiving benefits under title II of the Social Security Act (the Act) and disabled or blind persons receiving Supplemental Security Income (SSI) benefits under title XVI of the Act. Current regulations permit payment for VR services where the person completes a continuous 9-month period of substantial gainful activity (SGA).

Under the first new provision, SSA will pay VR agencies for the costs of VR services provided to individuals continuing to receive payment under section 225(b) or section 1631(a)(6) of the Act because they are participating in a VR program after their disability has ceased. The second new provision allows payment to VR agencies for the costs of VR services provided to certain beneficiaries or recipients who refuse without good cause to continue or to cooperate in a VR program in such a way as to preclude their successful rehabilitation.

DATE: Comments must be received on or before December 9, 1986.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301–594–7460.

SUPPLEMENTARY INFORMATION: Under the present regulations (§§ 404.2101 through 404.2127 and §§ 416.2201 through 416.2227) implementing sections 222(d) and 1615(d) of the Act, as amended by Pub. L. 97–35, effective October 1, 1981, SSA will only pay VR agencies for the costs of rehabilitating disabled or blind beneficiaries or recipients who subsequently complete a continuous period of SGA of 9 months duration. The requirement must be met in every case and no other provision is made for making payment for VR services if this requirement is not met. If met, payment may be made for VR services provided after September 30, 1981, during any month for which an individual was entitled (including the waiting period) to title II disability benefits or receiving title XVI disability or blindness payments. However, no payment for VR services will be made for any month after the month in which the continuous 9-month period of SGA is completed. Also, if certain other criteria are not met (e.g., there would be no savings to the trust funds or general fund, costs of a VR service are payable from some other source, or the VR services provided did not contribute to the completion of the continuous 9-month period of SGA), payment for all or some of the VR costs cannot be made.

We are proposing to add the two provisions created by section 11 of Pub. L. 98–460 to the existing provision for payment for VR services. Under the first new provision, SSA will pay VR agencies for the costs of VR services provided to individuals continuing to receive payment under section 225(b) or section 1631(a)(6) of the Act because they are participating in a VR program after the physical or mental impairment on which entitlement is based has ceased. We call this the VR medical cessation provision. The second new provision allows payment to VR agencies for the costs of VR services provided to certain beneficiaries or recipients who refuse without good cause to continue or to cooperate in a VR program in such a way as to preclude their successful rehabilitation. We call this the VR refusal provision.

Under the new provisions, a VR agency may be reimbursed for services furnished to individuals in the cases described above which were rendered after September 30, 1981. However, for a VR agency to receive payment for such services, the disabled individual must be receiving payment under section 225(b) or section 1631(a)(6) of the Act, or the disabled or blind individual must be refusing VR services (including failing to cooperate), in or after November 1984, the effective date of the VR amendments described in section 11 of Pub. L. 98–460. To receive payment under the new provisions, it will not be necessary that a continuous 9-month period of SGA be completed before payment can be made. However, in the event a continuous 9-month period of SGA is completed in a case where the person is receiving payments despite a medical cessation of disability because of participation in an approved VR plan, no payment can be made for VR services provided after the continuous 9-month period of SGA ends or after the month entitlement ceases, whichever is earlier.

Identification of Potential Claims

The VR agency may not be able to readily identify those cases in which the individual's benefits have been continued under section 225(b) or 1631(a)(6) of the Act, or in which the individual's benefits have been suspended due to VR refusal (i.e., cases where we determine that the refusal to continue or failure to cooperate in the VR program is without good cause). Therefore, in an effort to limit the number of erroneous claims which might be filed by VR agencies under these new provisions, we decided that we would use our records to identify cases which might meet the requirements for VR payment under the new provisions. The VR agency would then be requested to file a claim for payment for each case identified as a potential allowance.

This decision was made after preliminary contacts with selected VR agencies revealed that estimated VR refusals processed by VR agencies annually, for example, numbered in the thousands, whereas actual suspensions for VR refusal after applying the good cause provision for refusal as required by this legislation, numbered less than 100 annually. Therefore, it was apparent that it would be much easier for all concerned if we identified the suspension actions resulting from VR refusal and requested claims in these cases rather than have the VR agencies file, and us process, a large number of inappropriate claims. Using the same approach for claims in cases involving the continuation of benefits under section 225(b) or 1631(a)(6) of the Act would have similar advantages.

We will identify cases involving a potential allowance under the new provisions in two ways. First, we will

screen our existing records to identify previous title II and title XVI cases in which benefits were suspended for VR refusal, or in which benefits were continued under section 225(b) or 1631(a)(6) of the Act, for a month after October 1984. Second, as a regular day-to-day operating procedure we will identify, on an ongoing basis, current cases in which we suspend benefits for VR refusal or continue benefits under section 225(b) or 1631(a)(6) of the Act. When a case is so identified, we will send a written notice to the VR agency to file a claim for payment for VR services in that case. In addition, however, the VR agency may file claims for any cases which the VR agency believes were overlooked in the identification process.

Deadlines for Filing Claims Under the New Provisions

For accounting purposes and to expedite payments to VR agencies, the existing regulations (20 CFR 404.2108(a) and 416.2208(a)) require that a claim for payment for VR services must be filed within 12 months after the individual's completion of a continuous 9-month period of SGA. Because the completion of a continuous 9-month period of SGA is not required for payment under the new provisions, different starting dates for time periods for filing claims under the two new provisions had to be established: (1) for cases in which we send a written notice to the VR agency requesting that a VR claim be filed with us; and (2) for cases in which we do not send the VR agency a notice requesting that a claim be filed, but the VR agency files a claim because its records show a claim is warranted. In addition, because we will generally be sending a written notice to the VR agency advising the agency of a potential claim, we believe that a shorter time period for filing the claim in such cases is appropriate. Therefore, the proposed regulations provide that in cases where we send a written notice to the VR agency requesting that a claim be filed under the new provisions the VR agency will have a 90-day time period within which to file the claim. This 90-day period should allow the VR agencies ample time to compile complete cost data necessary to file their claim and at the same time allow us to pay the claim and close our records for accounting purposes within a reasonable time. In cases where we do not send the VR agency a written notice advising the agency of a potential claim, we recognize that the VR agency should have a longer time period (i.e., 12 months) within which to file a claim under either of the two new provisions.

Under the proposed regulations, §§ 404.2116 and 416.2216, if we send a State VR agency or alternate participant a written notice requesting that a claim be filed under the new provisions, the VR agency must file the claim—

1. Under the VR refusal provision, within 90 days after the date the VR agency receives our written notice; or

2. Under the VR medical cessation provision, within 90 days following the month in which VR services end or, if later, within 90 days after receipt of our written notice.

In cases where we do not send the VR agency a written notice requesting that a claim be filed, but the VR agency, on the basis of its own records, chooses to file a claim under the new provisions, the VR agency must file the claim—

1. Under the VR refusal provision, within 12 months after the month for which payment is suspended because of VR refusal; or

2. Under the VR medical cessation provision, within 12 months after the month in which VR services end.

A VR agency will also be allowed to file a claim within 12 months after the publication date of the final implementing regulations if this date is later than the filing deadlines described above in cases where a written notice to file a claim was not sent to the VR agency.

Appeals by VR Agencies of Denials

We also propose that if a VR claim is denied because the individual involved is not receiving payment under section 225(b) or section 1631(a)(6) of the Act or is not in a nonpay status for VR refusal that this finding cannot be appealed by a VR agency. This is similar to the provision in §§ 404.2127(c) and 416.2227(c) applicable to appeals by VR agencies, of decisions made on title II and title XVI cases which affect a beneficiary's or recipient's right to payment (i.e., medical cessations). The reason for this provision is that these decisions only apply to a beneficiary's or recipient's right to disability or blindness payments and, as such, can only be appealed by a beneficiary or recipient. However, in the event that a VR agency submits evidence that shows that our decision may be incorrect, that evidence will be considered in reviewing our determination if it is appealed by the claimant or reopened by us.

Limitations on Payment

We have added proposed §§ 404.2117(f) and 416.2217(f) to emphasize that payment cannot be made more than once for the same VR service or cost. We did this primarily because a VR agency that is paid under one of the new provisions may file a later claim based upon the completion of a continuous 9-month period of SGA. If this happens, it is possible that the same period or a portion thereof, could apply to both claims. For example, if an individual was placed in a nonpay status because of his or her refusal to continue in a VR program effective for the month of December 1984, a VR agency could be paid for services provided this individual during the period from October 1, 1981 through November 30, 1984 (the month before the month that payment was withheld due to VR refusal) under proposed §§ 404.2113 and/or 416.2213. If the individual later resumed participation in a VR program, disability payments would then be reinstated. It is now possible, because of the VR services provided, that this individual could complete a continuous 9-month period of SGA and that the VR agency would again be eligible for payment for the VR services provided this individual. If this happened, the VR agency could request payment for its services during the period from October 1, 1981 through the month that the continuous 9-month period of SGA ended. However, because the VR agency was paid for its services, based on the VR refusal provision, for the period October 1, 1981 through November 30, 1984, payment for services provided during this period should not be included in computing the payment due the VR agency based upon the completion of a continuous 9-month period of SGA.

Payment in VR Refusal Situations

Finally, in dealing with the VR refusal provision, the proposed regulations (§§ 404.2113 and 416.2213) state that payment to a VR agency will only be made for services provided to those individuals who, without good cause, refuse to continue to participate in a VR program, or refuse to cooperate in such a manner as to preclude their successful rehabilitation. In order for VR services to be reimbursable under this provision, the individual (1) must be receiving title II or title XVI disability or blindness payments at the time he or she refuses to continue or fails to cooperate in the VR program, and (2) must have had his or her payments suspended or terminated due to such refusal or failure to cooperate. The proposed regulations make clear that the individual must have at least filed an application for VR services before payment to a VR agency can be considered under this provision. Payment to a VR agency cannot be made when the only action taken by the

VR agency was, for example, to request contact with the individual regarding the provision of VR services and the individual failed to respond. This provision does not change the existing law which requires that a social security disability beneficiary's or disabled or blind SSI recipient's payments be suspended for his or her refusal, without good cause, to accept VR services available. Therefore, there could be situations where an individual is not receiving payments from us because of VR refusal in which the VR agency cannot be paid under the VR payment provision.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These proposed regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they presently apply only to States and their VR agencies. There are presently no alternate participants. We would not expect a substantial number of alternate participants, if any, in the foreseeable future. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.807 Supplemental Security Income)

Dated: October 3, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: October 6, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The title and authority citation for Subpart V are revised to read as follows:

Subpart V—Payments for Vocational Rehabilitation Services

Authority: Secs. 205, 222, and 1102 of the Social Security Act, as amended; 49 Stat. 624, 68 Stat. 1082, 49 Stat. 647; 42 U.S.C. 405, 422, and 1302; Sec. 2209 of Pub. L. 97–35; 95 Stat. 840; Sec. 11 of Pub. L. 98–460; 98 Stat. 1805.

2. Section 404.2101 is revised to read as follows:

§ 404.2101 General.

Section 222(d) of the Social Security Act authorizes the transfer from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of such sums as may be necessary to pay for the reasonable and necessary costs of vocational rehabilitation (VR) services provided certain disabled individuals entitled under sections 223, 225(b) 202(d), 202(e) or 202(f) of the Social Security Act. The purpose of this provision is to make VR services more readily available to disabled individuals, help State VR agencies and alternate participants to recover some of their costs in VR refusal situations as described in § 404.2113, and ensure that savings accrue to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund. Payment will be made for VR services provided on behalf of such an individual in cases where—

(a) The furnishing of the VR services results in the individual's completion of a continuous 9-month period of substantial gainful activity (SGA) as specified in §§ 404.2110 through 404.2111;

(b) The individual continues to receive disability payments from us, even though his or her disability has ceased, because of his or her continued participation in an approved VR program which we have determined will increase the likelihood that he or she will not return to the disability rolls (see § 404.2112); or

(c) The individual refuses, without good cause, to continue or to cooperate in a VR program in such a manner as to preclude his or her successful rehabilitation (see § 404.2113).

3. In § 404.2102, introductory text is revised, paragraphs (e), (f), (g), (h), (i), (j), (k), and (l) are redesignated as (f), (h), (i), (j), (k), (l), (m), and (n), respectively, paragraphs (f), (h), (i), and (j) as redesignated are revised, and new paragraphs (e) and (g) are added to read as follows:

§ 404.2102 Purpose and scope.

This subpart describes the rules under which the Secretary will pay the State VR agencies or alternate participants for VR services. Payment will be provided for VR services provided on behalf of disabled individuals under one or more of the three provisions discussed in § 404.2101.

* * * * *

(e) Sections 404.2112 and 404.2113 describe when payment will be made to a VR agency or alternate participant because an individual's disability benefits are continued based on his or her participation in a VR program which we have determined will increase the likelihood that he or she will not return to the disability rolls; and when payment will be made to a VR agency or alternate participant when an individual refuses, without good cause, to continue to participate in a VR program or fails to cooperate in such a manner as to preclude his or her successful rehabilitation.

(f) Sections 404.2114 through 404.2115 describe services for which payment will be made.

(g) Section 404.2116 describes the filing deadlines for claims for payment for VR services.

(h) Section 404.2117 describes the payment conditions.

(i) Section 404.2118 describes the applicability of these regulations to alternate participants.

(j) Section 404.2119 describes how we will make payment to State VR agencies or alternate participants for successful rehabilitation services.

* * * * *

4. Within § 404.2103, the definition of "Disability beneficiary" is revised and a definition of "Good cause" is added thereafter to read as follows:

§ 404.2103 Definitions.

* * * * *

"Disability beneficiary" means a disabled individual who is entitled to benefits under section 223, 202(d), 202(e) or 202(f) of the Act or is continuing to receive payment under section 225(b) of

the Act after his or her disabling physical or mental impairments have ceased.

"Good cause" for VR refusal (as described in § 404.2113) is defined in § 404.422(e) of this part.

* * * * *

5. In § 404.2108, paragraphs (a), (b) and (d) are revised, paragraph (e) is removed, and paragraphs (f) and (g) are redesignated as (e) and (f), respectively, and paragraph (f), as redesignated, is revised to read as follows:

§ 404.2108 Requirements for payment.

(a) The State VR agency or alternate participant must file a claim for payment in each individual case within the time periods specified in § 404.2116;

(b) The VR services for which payment is being requested must have been provided during the period specified in § 404.2115;

* * * * *

(d) The individual must meet one of the VR payment provisions specified in § 404.2101;

* * * * *

(f) The amount to be paid must be reasonable and necessary and be in compliance with the cost guidelines specified in § 404.2117.

6. Section 404.2109 is revised to read as follows:

§ 404.2109 Responsibility for making payment decisions.

The Commissioner will decide—

(a) Whether a continuous period of 9 months of SGA has been completed;

(b) Whether a disability beneficiary whose disability has ceased should continue to receive benefits under §§ 404.316(c), 404.337(c), or 404.352(c) for a month after October 1984, based on his or her continued participation in a VR program;

(c) Whether suspension of a disability beneficiary's benefits for a month after October 1984, was due to the beneficiary's refusal, without good cause, to continue to accept VR services or to cooperate in such a manner as to preclude his or her successful rehabilitation;

(d) If and when medical recovery has occurred;

(e) Whether documentation of VR services and expenditures is adequate;

(f) If payment is to be based on completion of a continuous 9-month period of SGA, whether the VR services contributed to the continuous period of SGA; and

(g) What VR costs were reasonable and necesssary and will be paid.

§ 404.2110 [Amended]

7. In § 404.2110, paragraph (c) is amended by changing "§ 404.2113 of" to "§ 404.2115 for".

8. Section 404.2111 introductory text is revised to read as follows:

§ 404.2111 Criteria for determining when VR services will be considered to have contributed to a continuous period of 9 months.

The State VR agency or alternate participant may be reimbursed for VR services if such services contribute to the individual's performance of a continuous 9-month period of SGA. The following criteria apply to individuals who received more than just evaluation services. If a State VR agency or alternate participant claims payment for services to an individual who received only evaluation services, it must establish that the individual's continuous period or medical recovery (if medical recovery occurred before completion of a continuous period) would not have occurred without the services provided. In applying the criteria below, we will consider all services initiated, coordinated or provided, including services before October 1, 1981.

* * * * *

9. Section 404.2112 is redesignated as § 404.2114, § 404.2113 is redesignated as § 404.2115, § 404.2116 is redesignated as § 404.2117, § 404.2117 is redesignated as § 404.2118, and § 404.2118 is redesignated as § 404.2119.

10. A new § 404.2112 is added to read as follows:

§ 404.2112 Payment for VR services in a case where an individual continues to receive disability payments based on participation in an approved VR program.

Sections 404.1586(f), 404.316(c), 404.337(c), and 404.352(c) explain the criteria we will use in determining if an individual whose disability has ceased should continue to receive disability benefits from us because of his or her continued participation in a VR program. A VR agency or alternate participant can be paid for the cost of VR services provided to an individual if the individual was receiving benefits in a month or months, after October 1984, based on §§ 404.316(c), 404.337(c), or 404.352(c). If this requirement is met, a VR agency or alternate participant can be paid for the costs of VR services provided within the period specified in § 404.2115, subject to the other payment and administrative provisions of this subpart.

11. A new § 404.2113 is added to read as follows:

§ 404.2113 Payment for VR services in a case where an individual refuses to continue or fails to cooperate in a VR program.

Payment can be made to a VR agency or alternate participant for the costs of VR services provided to an individual who, after filing an application with a VR agency for rehabilitation services, without good cause, refuses to continue to accept VR services or fails to cooperate in such a manner as to preclude the individual's successful rehabilitation. A VR agency or alternate participant may be paid, subject to the provisions of this subpart, for the costs of services provided an individual if the individual's monthly disability payment has been suspended for a month or months after October 1984, because of VR refusal. VR refusal means refusal to continue to accept VR services or failure to cooperate in such a manner as to preclude the individual's successful rehabilitation.

12. Section 404.2115, as redesignated, is revised to read as follows:

§ 404.2115 When services must have been provided.

(a) In order for the VR agency or alternate participant to be paid, the services must have been provided—

(1) After September 30, 1981;

(2) No earlier than the beginning of the waiting period or the first month of entitlement, if no waiting period is required; and

(3) Before completion of a continuous 9-month period of SGA or termination (suspension of benefits in cases described in § 404.2113) of payments to the individual, whichever occurs first.

(b) Where disability or blindness payments are made simultaneously to an individual based on the provisions of both this part and part 416, the determination as to when services must have been provided may be made under this section or § 416.2215, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

13. A new § 404.2116 is added to read as follows:

§ 404.2116 When claims for payment for VR services must be made (Filing deadlines).

The State VR agency or alternate participant must file a claim for payment in each individual case within the following time periods:

(a) A claim for payment for VR services based on the individual's completion of a continuous 9-month period of SGA must be filed within 12 months after the month in which the

continuous 9-month period of SGA is completed.

(b) A claim for payment for VR services provided to an individual whose disability benefits were continued after disability has ceased because of that individual's continued participation in a VR program must be filed as follows:

(1) If a written notice requesting that a claim be filed was sent to the State VR agency or alternate participant, a claim must be filed within 90 days following the month in which VR services end, or if later, within 90 days after receipt of the notice.

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month in which VR services end or, if later, within 12 months after the month of publication of § 404.2116.

(c) A claim for payment based on an individual's refusal, without good cause, to continue or cooperate in a VR program must be filed—

(1) Within 90 days after the VR agency or alternate participant receives our written request to file a claim for payment; or

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month for which disability benefit payments are suspended because of VR refusal, or if later, within 12 months after the month of publication of § 404.2116.

14. In § 404.2117, as redesignated, the introductory text is revised, paragraphs (d) and (e) are revised, paragraph (f) is redesignated as paragraph (g) and a new paragraph (f) is added to read as follows:

§ 404.2117 What costs will be paid.

In accordance with section 222(d) of the Social Security Act, the Secretary will pay the State VR agency or alternate participant for all VR services performed during the period described in § 404.2115, but subject to the following limitations:

* * * * *

(d) The total payment in each case, including any prior payments related to earlier continuous 9-month periods of SGA made under this subpart, must not be so high as to preclude a "net saving" to the Trust Funds (a "net saving" is the difference between the estimated saving to the Trust Funds, if disability benefits eventually terminate, and the total amount we pay to the State VR agency or alternate participant);

(e) Any payment to the State VR agency for either direct or indirect VR expenses must be consistent with the cost principles described in OMB Circular No. A–87, published at 46 FR 9548 on January 28, 1981 (see § 404.2118(a) for cost principles applicable to alternate participants);

(f) Payment for VR services or costs may be made under more than one of the VR payment provisions described in §§ 404.2111 through 404.2113 of this subpart and similar provisions in §§ 416.2211 through 416.2213 of Subpart V of Part 416. However, payment will not be made more than once for the same VR service or cost. For example, payment to a VR agency based upon the completion of a continuous 9-month period of SGA which was made after an earlier payment based upon VR refusal, would only include payment for those VR costs incurred or services provided after the individual resumed VR services after refusal; and

* * * * *

15. Section 404.2119, as redesignated, is revised to read as follows:

§ 404.2119 Method of payment.

Payment to the State VR agencies or alternate participants pursuant to this subpart will be made either by advancement of funds or by payment for services provided (with necessary adjustments for any overpayments and underpayments), as decided by the Commissioner.

§ 404.2120 [Amended]

16. In § 404.2120, paragraph (c) is amended by changing the reference from § 404.2117(b) to § 404.2118(b).

17. In § 404.2127, paragraph (a) is amended by changing the reference from § 404.2117(b) to § 404.2118(b), and paragraph (c) is revised to read as follows:

§ 404.2127 Resolution of disputes.

* * * * *

(c) *Disputes on determinations made by the Secretary which affect a disability beneficiary's rights to benefits.* Determinations made by the Secretary which affect an individual's right to benefits (e.g., determinations that disability benefits should be terminated, denied, suspended, continued or begun at a different date than alleged) cannot be appealed by a State VR agency or alternate participant. Because these determinations are an integral part of the disability benefits claims process, they can only be appealed by the beneficiary or applicant whose rights are affected or by his or her authorized representative. However, if an appeal of an unfavorable determination is made by the individual and is successful, the new determination would also apply for purposes of this subpart. While a VR agency or alternate participant cannot appeal a determination made by the Secretary which affects a beneficiary's or applicant's rights the VR agency can furnish any evidence it may have which would support a revision of a determination.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The title and authority citation for Subpart V are revised to read as follows:

Subpart V—Payments for Vocational Rehabilitation Services

Authority: Secs. 1102, 1615, and 1631(d) of the Social Security Act, as amended; 49 Stat. 647, 86 Stat. 1474; 42 U.S.C. 1302, 1382d and 1383(d); Sec. 2344 of Pub. L. 97–35; 95 Stat. 867; Sec. 11 of Pub. L. 98–460; 98 Stat. 1805.

2. Section 416.2201 is revised to read as follows:

§ 416.2201 General.

Section 1615(d) of the Social Security Act authorizes payment from the general fund for the reasonable and necessary costs of vocational rehabilitation (VR) services provided certain disabled or blind individuals eligible under section 1614(a)(2), 1614(a)(3), 1619(a), or who continue to receive payment under 1631(a)(6) of the Social Security Act. The purpose of this provision is to make VR services more readily available to disabled or blind individuals, help State VR agencies and alternate participants to recover some of their costs in VR refusal situations, as described in § 16.2213, and ensure that savings accrue to the general fund. Payment will be made for VR services provided on behalf of such an individual, in cases where—

(a) The furnishing of the VR services results in the individual's completion of a continuous 9-month period of substantial gainful activity (SGA) as specified in §§ 416.2210 through 416.2211;

(b) The individual continues to receive disability payments from us, even though his or her disability has ceased, because of his or her continued participation in an approved VR program which we have determined will increase the likelihood that he or she will not return to the disability rolls (see § 416.2212); or

(c) The individual refuses, without good cause, to continue or to cooperate

in a VR program in such a manner as to preclude his or her successful rehabilitation (see § 416.2213).

3. In § 416.2202, the introductory text is revised, paragraphs (e), (f), (g), (h), (i), (j), (k), and (l) are redesignated as (f), (h), (i), (j), (k), (l), ((m), and (n), respectively, paragraphs (f), (h), (i), and (j) as redesignated are revised, and new paragraphs (e) and (g) are added to read as follows:

§ 416.2202 Purpose and scope.

This subpart describes the rules under which the Secretary will pay the State VR agencies or alternate participants for VR services. Payment will be provided for VR services provided on behalf of disabled or blind individuals under one or more of the three provisions discussed in § 416.2201.

* * * * *

(e) Sections 416.2212 and 416.2213 describe when payment will be made to a VR agency or alternate participant because an individual's disability benefits are continued based on his or her participation in a VR program which we have determined will increase the likelihood that he or she will not return to the disability rolls; and when payment will be made to a VR agency or alternate participant when an individual refuses, without good cause, to continue to participate in a VR program or fails to cooperate in such a manner as to preclude his or her successful rehabilitation.

(f) Sections 416.2214 through 416.2215 describe services for which payment will be made.

(g) Section 416.2216 describes the filing deadlines for claims for payment for VR services.

(h) Section 416.2217 describes the payment conditions.

(i) Section 416.2218 describes the applicability of these regulations to alternate participants.

(j) Section 416.2219 describes how we will make payment to State VR agencies or alternate participants for successful rehabilitation services.

* * * * *

4. Within § 416.2203, the definition of "Eligible" is revised and a definition of "Good cause" is added immediately thereafter to read as follows:

§ 416.2203 Definitions.

* * * * *

"Eligible" means meets all the requirements for supplemental security income benefits under sections 1614(a)(2), 1614(a)(3), or 1619(a) and is receiving SSI payments or continues to receive benefits under section 1631(a)(6) of the Act.

"Good cause" for VR refusal (as described in § 416.2213) is defined in § 416.1715(b) of this part.

* * * * *

5. In § 416.2208, paragraphs (a), (b), and (d) are revised, paragraph (e) is removed, and paragraphs (f) and (g) are redesignated as (e) and (f), respectively, and paragraph (f), as redesignated, is revised to read as follows:

§ 416.2208 Requirements for payment.

(a) The State VR agency or alternate participant must file a claim for payment in each individual case within the time periods specified in § 416.2216;

(b) The VR services for which payment is being requested must have been provided during the period specified in § 416.2215;

* * * * *

(d) The individual must meet one of the VR payment provisions specified in § 416.2201;

* * * * *

(f) The amount to be paid must be reasonable and necessary and be in compliance with the cost guidelines specified in § 416.2217.

6. Section 416.2209 is revised to read as follows:

§ 416.2209 Responsibility for making payment decisions.

The Commissioner will decide:

(a) Whether a continuous period of 9 months of SGA has been completed;

(b) Whether a disability recipient whose disability has ceased should continue to receive payments under § 416.1338 of this part for a month after October 1984, based on his or her continued participation in a VR program;

(c) Whether suspension of a disability or blindness payment for a month after October 1984, was due to the recipient's refusal, without good cause, to continue to accept VR services or to cooperate in such a manner as to preclude his or her successful rehabilitation;

(d) If and when medical recovery has occurred;

(e) Whether documentation of VR services and expenditures is adequate;

(f) If payment is to be based on completion of a continuous 9-month period of SGA, whether the VR services contributed to the continuous period of SGA; and

(g) What VR costs were reasonable and necesssary and will be paid.

§ 416.2210 [Amended]

7. In § 416.2210, paragraph (c) is amended by changing the reference from § 416.2213 to § 416.2215.

8. Section 416.2211 introductory text is revised to read as follows:

§ 416.2211 Criteria for determining when VR services will be considered to have contributed to a continuous period of 9 months.

The State VR agency or alternate participant may be reimbursed for VR services if such services contribute to the individual's performance of a continuous 9-month period of SGA. The following criteria apply to individuals who received more than just evaluation services. If a State VR agency or alternate participant claims payment for services to an individual who received only evaluation services, it must establish that the individual's continuous period or medical recovery (if medical recovery occurred before completion of a continuous period) would not have occurred without the services provided. In applying the criteria below, we will consider all services initiated, coordinated or provided, including services before eligibility and before October 1, 1981.

* * * * *

9. Section 416.2212 is redesignated as § 416.2214, § 416.2213 is redesignated as § 416.2215, § 416.2216 is redesignated as § 416.2217, § 416.2217 is redesignated as § 416.2218, and § 416.2218 is redesignated as § 416.2219.

10. A new § 416.2212 is added to read as follows:

§ 416.2212 Payment for VR services in a case where an individual continues to receive disability payments based on participation in an approved VR program.

Section 416.1338 contains the criteria we will use in determining if an individual whose disability has ceased should continue to receive disability payments from us because of his or her continued participation in a VR program. A VR agency or alternate participant can be paid for the cost of VR services provided to an individual if the individual was receiving payments in a month or months after October 1984, based on this provision. If this requirement is met, a VR agency or alternate participant can be paid for the costs of VR services provided within the period specified in § 416.2215, subject to the other payment and administrative provisions of this subpart.

11. A new § 416.2213 is added to read as follows:

§ 416.2213 Payment for VR services in a case where an individual refuses to continue or fails to cooperate in a VR program.

Payment can be made to a VR agency or alternate participant for the costs of

VR services provided to an individual who, after filing an application with a VR agency for rehabilitation services, without good cause, refuses to continue to accept VR services or fails to cooperate in such a manner as to preclude the individual's successful rehabilitation. A VR agency or alternate participant may be paid, subject to the provisions of this subpart, for the costs of services provided an individual if the individual's monthly disability or blindness payment has been suspended or terminated for a month or months, after October 1984, because of VR refusal. Vocational rehabilitation refusal means refusal to continue to accept VR services or failure to cooperate in such a manner as to preclude the individual's successful rehabilitation.

12. Section 416.2215, as redesignated, is revised to read as follows:

§ 416.2215 When services must have been provided.

(a) In order for the VR agency or alternate participant to be paid the services must have been provided—

(1) After September 30, 1981;

(2) During months the individual is eligible for SSI disability or blindness payments; and

(3) Before completion of a continuous 9-month period of SGA.

(b) Where disability or blindness payments are made simultaneously to an individual based on the provisions of both this Part and Part 404, the determination as to when services must have been provided may be made under this section or § 404.2115, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

13. A new § 416.2216 is added to read as follows:

§ 416.2216 When claims for payment for VR services must be made (Filing deadlines).

The State VR agency or alternate participant must file a claim for payment in each individual case within the following time periods:

(a) A claim for payment for VR services based on the completion of a continuous 9-month period of SGA must be filed within 12 months after the month in which the continuous 9-month period of SGA is completed.

(b) A claim for payment for VR services provided to an indvidual whose disability benefits were continued after disability has ceased because of that individual's continued participation in a VR program must be filed as follows:

(1) If a written notice requested that a claim be filed was sent to the State VR agency or alternate participant, a claim must be filed within 90 days following the month in which VR services end, or if later, within 90 days after receipt of the notice.

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month in which VR services end or, if later, within 12 months after the month of publication of § 416.2216.

(c) A claim for payment based on an individual's refusal, without good cause, to continue or cooperate in a VR program must be filed—

(1) Within 90 days after the VR agency or alternate participant receives our written request to file a claim for payment; or

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month for which disability benefit payments are suspended because of VR refusal, or if later, within 12 months after the month of publications of § 416.2216.

14. In § 416.2217 as redesignated, the introductory text is revised, paragraphs (d) and (e) are revised, paragraph (f) is redesignated as paragraph (g) and a new paragraph (f) is added to read as follows:

§ 416.2217 What costs will be paid.

In accordance with section 1615(d) of the Social Security Act, the Secretary will pay the State VR agency or alternate participant for all VR services performed during the period described in § 416.2215, but subject to the following limitations:

* * * * *

(d) The total payment in each case, including any prior payments related to earlier continuous 9-month periods of SGA made under this subpart, must not be so high as to preclude a "net saving" to the general fund (a "net saving" is the difference between the estimated savings to the general fund, if payments for disability or blindness remain reduced or eventually terminate, and the total amount we pay to the State VR agency or alternate participant);

(e) Any payment to the State VR agency for either direct or indirect VR expenses must be consistent with the cost principles described in OMB Circular No. A–87, published at 46 FR 9548 on January 28, 1981 (see § 416.2218(a) for cost principles applicable to alternate participants);

(f) Payment for VR services or costs may be made under more than one of the VR payment provisions described in §§ 416.2211 through 416.2213 of this subpart and similar provisions in §§ 404.2111 through 404.2113 of Subpart V of Part 404. However, payment will not be made more than once for the same VR service or cost. For example, payment to a VR agency based upon the completion of a continuous 9-month period of SGA which was made after an earlier payment based upon VR refusal, would only include payment for those VR costs incurred or services provided after the individual resumed VR services after refusal; and

* * * * *

15. Section 416.2219, as redesignated, is revised to read as follows:

§ 416.2219 Method of payment.

Payment to the State VR agencies or alternate participants pursuant to this subpart will be made either by advancement of funds or by payment for services provided (with necessary adjustments for any overpayments and underpayments), as decided by the Commissioner.

§ 416.2220 [Amended]

16. In § 416.2220, paragraph (c) is amended by changing the reference from § 416.2217(b) to § 416.2218(b).

17. In § 416.2227, paragraph (a) is amended by changing the reference from § 416.2217(b) to § 416.2218(b), and paragraph (c) is revised to read as follows:

§ 416.2227 Resolution of disputes.

* * * * *

(c) *Disputes on determinations made by the Secretary which affect a disability beneficiary's rights to benefits.* Determinations made by the Secretary which affect an individual's right to benefits (e.g., determinations that disability benefits should be terminated, denied, suspended, continued or begun at a different date than alleged) cannot be appealed by a State VR agency or alternate participant. Because these determinations are an integral part of the disability benefits claims process, they can only be appealed by the beneficiary or applicant whose rights are affected or by his or her authorized representative. However, if an appeal of an unfavorable determination is made by the individual and is successful, the new determination would also apply for purposes of this subpart. While a VR agency or alternate participant cannot appeal a determination made by the Secretary which affects a beneficiary's or applicant's rights the VR agency can furnish any evidence it may have which would support a revision of a determination.

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Part III

Department of Health and Human Services

Office of Human Development Services

Alaskan Native Social and Economic Development Projects; Program Announcement 13612-872

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-872]

Alaskan Native Social and Economic Development Projects

AGENCY: Office of Human Development Services, HHS.

ACTION: Program announcement 13612-872.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for competitive financial assistance for Alaskan Native social and economic development projects. Regulations governing this program are published in the Code of Federal Regulations at 45 CFR Part 1336.

DATES: The closing dates for receipt of applications are January 16, 1987 and June 5, 1987.

FOR FURTHER INFORMATION CONTACT: Applicants wanting additional information regarding this program announcement should contact: Ted George, (206) 442-0992, or Robert Kreidler, (206) 442-8113, Administration for Native Americans, Office of Human Development Services, DHHS, 2901 3rd Avenue, Seattle, WA 98121.

SUPPLEMENTARY INFORMATION: The purpose of this program announcement is to announce the availability of Fiscal Year 1987 financial assistance to promote self-sufficiency for Alaskan Natives through support of local governance, as well as social and economic development projects. Funds will be awarded under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, 88 Stat. 2291, 2324 (current version 42 U.S.C. 2991(b)).

Proposed projects will be reviewed on a competitive basis against the evaluation criteria set forth in this announcement.

(The application requirements are approved under OMB Control No. 0980-0016)

Programs Purpose

The purpose of the financial assistance provided by the Administration for Native Americans (ANA) under the Native American Program Act (the Act) is to promote social and economic self-sufficiency for American Indians, Alaskan Natives, and Native Hawaiians.

ANA believes that responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and Alaskan Native villages and in the leadership of Native American groups. The development of self-sufficiency requires strengthening governance, economic progress, and improvement of social systems which protect and enhance the health and well-being of individuals, families and Communities. Achievement of self-sufficiency is based on the community's ability to plan, organize, and direct resources in a comprehensive manner to achieve long-range community goals. ANA bases its program and policy initiatives on the following three program goals:

(1) *Governance:* To assist tribal and village governments, Native American institutions, and local leadership to exercise local control and decision-making responsibility over their resources.

(2) Economic development: To foster the development of stable, diversified local economies and economic activities which will provide jobs, promote economic well-being, and reduce dependency on public funds and social services.

(3) Social development: To support local access to, control of, and coordination of services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

To accomplish these goals, ANA supports tribal and village governments and other Native American organizations in the development and implementation of community-based, long-term governance and social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This approach is based on two fundamental principles:

(1) The local community and its leadership are responsible for determining their own goals, setting priorities, and planning and implementing programs aimed at achieving those goals; the unique mix of socio-economic, political, and cultural factors involved in each community makes such self-determination necessary; the local community is in the best position to apply its own cultural, political, and socio-economic values in deciding on long term strategies and programs.

(2) Economic and social development are interrelated, and development in one area should be balanced with development in the other in order to enhance self-sufficiency. Without a careful balance of the two, the community's development efforts may be jeopardized. A basic premise is that expansion of social services, without providing opportunities for employment and economic development, may lead to greater dependency. Conversely, inadequate social services can seriously impede productivity and economic development.

The fundamental task which Native American communities face is developing enduring social and economic strategies in keeping with local goals, resources, and cultural values. ANA is interested in assisting local communities in the implementation of projects that are a part of long-range strategies to achieve social and economic self-sufficiency. ANA expects its applicants to have undertaken a long-range planning process that addresses the community's development and encourages social and economic growth for the community. Such long-range planning must consider the maximum use of available resources, directing those resources at opportunities and addressing issues that hinder progress. Planning and feasibility studies are acceptable strategies as long as they are part of a larger project which produces concrete, measurable results.

Governance. In the development toward self-sufficiency, ANA places the highest emphasis on increasing the effectiveness of the governing capability of Indian tribes, Alaskan Native villages, and Native American groups. Effective governance is a necessary foundation for social and economic development and efforts to achieve effective governance include: (1) Strengthening the effectiveness of tribal and village governments; (2) increasing the ability of tribes, villages, and Native Americans groups and organizations to plan, develop, and administer a comprehensive program supportive of community social and economic self-sufficiency; and (3) increasing awareness of the legal rights and benefits to which Native Americans are entitled either by virtue of the federal trust relationship, legislative authority, or as citizens of the United States.

Under the governance goal, ANA strongly encourages tribal and village councils and other governing bodies to strengthen and streamline their institutional management in order to develop and implement social and economic development strategies and to improve the daily management of programs. By improving such capabilities, Indian Tribes, Alaskan Native villages, and Native American groups can better define and achieve the goals of their people and promote greater efficiency and effectiveness in the use of available resources.

Building on the foundation of strong local governance, ANA expects tribal

and village governments and other Native American organizations to move toward coordinated and balanced development and implementation of social and economic development strategies. These interrelated strategies should coordinate and direct all resources (Federal and non-federal) toward locally determined priorities, and impact the community and its members in ways that promote greater economic and social self-sufficiency. In addition, these strategies should provide an independent source of revenue to the community which will assist the applicant in decreasing its dependency on public funds.

Economic development is the long-term mobilization and management of economic resources to achieve a diversified economy characterized by widespread distribution of economic resources, services, and benefits; participation of community members in the productive activities and economic investments of the community; and pursuit of economic interests in ways that balance economic gain with social development.

Social development is the mobilization and management of resources for the social benefit of community members, and involves the establishment of institutions, systems, and practices that contribute to the social environment desired by the community. This includes the development of, access to, and local control over the institutions that protect the health and welfare of individuals and families, and preserve the values, language, and culture of the community.

Alaska Initiative

In Fiscal Year 1984, ANA implemented a three-year special Alaska social and economic development initiative. The purpose of this special effort was to provide financial assistance at the village level or for village specific projects aimed at social and economic development. Under this program announcement, 13612–872, ANA is adding a fourth year to the Alaska initiative. ANA continues to place major emphasis on village-level development efforts. ANA sees both the non-profit and for-profit corporations in Alaska as being able to play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies which take advantage of the opportunities afforded to Alaska Natives under the Alaska Native Claims Settlement Act (ANCSA), Pub. L. 92–202.

Examples of the types of projects that ANA is seeking to fund include, but are not limited to, projects that will:

Governance

- Initiate a demonstration program at a regional level to allow Native people to become involved in developing strategies to maintain and develop their economic subsistence base.
- Assist in developing land use capabilities and develop skills in the areas of land and natural resource management including resource assessment and development, as well as potential impacts upon the environment and the subsistence ecology.
- Assist village consortia in the development of tribal constitutions, codes, and court systems.
- Develop agreements between the state and villages that transfer programs, jurisdictions, and/or control to Native entities.
- Strengthen village government control of land management, including land protection.
- Develop tribal courts, adoption codes, and/or related comprehensive children's codes.
- Assist in status clarification for traditional councils.
- Initiate village level mergers between village council and village corporations.
- Develop Regional IRAs (Indian Reorganization Act of 1934) and village consortia, in order to maximize tribal government resources, i.e., to develop model codes, or tribal court systems.

Economic development

- Assist villages to develop businesses and industries which (1) use local materials, (2) create jobs for Alaska Natives, (3) are capable of high productivity at a small scale of operation, and (4) complement traditional and necessary seasonal activities.
- Substantially increase and strengthen efforts to establish and improve the village and regional infrastructure and the capabilities to develop and manage resources in a highly competitive cash-economy system.
- Assist villages or consortia of villages in developing subsistence compatible industries that will retain local dollars in villages, reducing dependency on State and Federal subsidies.
- Assist in new or expanded Native businesses.
- Assist villages in labor export, i.e., people leaving the local communities for seasonal work and returning to their communities.

Social development

- Assist villages in developing the service sector.
- Assist in developing training and education programs for those jobs in education, government, and health usually found in local communities and also to work with the various agencies to encourage job replacement of non-Natives by Natives.
- Coordinate land use planning with village corporations and city government.
- Develop local control of planning and delivery of social services.
- Develop new service programs established with ANA funds and funded for continued operation by local communities or the private sector.
- Develop or coordinate activities with state-funded projects, in decreasing the incidences of child abuse and neglect, or fetal alcohol syndrome, or Native suicides.
- Assist in obtaining licenses to provide housing or related services for State or local governments or both.
- Assist in increasing the number of Native adoptions, or Native children returning home from foster care.
- Assist in respite care for family caretakers.

Program Priority

The ANA program priority is to fund projects that will make the greatest impact in promoting improved governance and increased social and economic self-sufficiency for Native Americans. The project proposal must clearly identify in measurable terms the expected results of the project and its positive and continuing impact on the community. ANA encourages applicants to consider innovative approaches to achieve the specific governance and social and economic goals of the community, and to use non-ANA resources including human, natural, and financial ones to strengthen and broaden the proposed project's impact in the community.

In the Part IV, section A, number 2, of the application package, *Resources Available to the Proposed Project*, the applicant must address any specific financial circumstances which may impact on the project. The applicant must justify the specific reasons it is seeking ANA funds, particularly if the applicant apparently has other resources to support the proposed project and chooses not to use them.

If a profit making venture is being proposed, revenue must be reinvested in the business in order to decrease or eliminate ANA's future participation.

Such revenue must be reported as general program income and used in accordance with the deduction alternative. (See 45 CFR 74.42(c)). Grant funds may not be paid as profit to any grantee.

Community Coordination

ANA supports the concept that the key to balanced socio-economic development is the local village. ANA encourages Native village governments to coordinate their local plans with other village entities, if any, and especially the city government and the village corporation. In addition, villages are encouraged to make maximum use of regional nonprofit resources, including village-to-regional corporation subcontracts.

Eligible Applicants

The following are eligible to apply for a grant award under this program announcement:

- Alaskan Native villages as defined in the Alaska Native Claims Settlement Act.
- Nonprofit Alaskan Native Regional Corporations in Alaska with village specific projects.
- Nonprofit organizations in Alaska with village specific projects.
- Current ANA grantees in Alaska funded under section 803 of the Native American Programs Act with a project period ending in Fiscal Year 1987, with the exception of Metlakatla. Metlakatla will have the opportunity to apply for Fiscal Year 1987 funds under ANA program Announcement 13612–871.
- Alaskan Native Indian communities as recognized by the Bureau of Indian Affairs.

Although for-profit Regional Corporations established under ANCSA are not eligible applicants, individual villages and Indian communities are encouraged to use the for-profit corporations as subcontractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency. ANA encourages the for-profit corporations to assist the villages in developing applications and to participate as subcontractors in the project.

Available Funds

ANA expects to award approximately $1.5 million in grant awards under this program announcement.

Funding guidance: ANA plans to award approximately 15–18 grants. For individual village projects, the funding level will be up to $100,000; for regional nonprofit and village consortia, the funding level is up to $150,000, commensurate with approved multi-village objectives. For multi-year projects, the funding range for Fiscal Years 1988 and 1989 will be the same.

Note.—Subpart H, 45 CFR Part 74 describes those elements of a generally acceptable accounting system for Federal grantees. The financial management standards in Subpart H require: (1) Accurate, current and complete disclosure; (2) records which show source and application of funds; (3) effective control and accountability of funds and property; (4) comparison of actual and budgeted amounts; (5) procedures to minimize time lapsing between transfer and disbursement of funds; (6) procedures to determine allowability and allocating of funds; (7) accounting records with source documentation; (8) periodic audits; and (9) a follow-up system.

Village governments without established accounting systems must arrange for qualified, acceptable accounting services prior to release of grant funds.

Multi-Year Projects

Applicants may apply for projects of up to 36 months duration. A multi-year project, one extending more than 12 months, affords applicants the opportunity to undertake prior long-range planning and continuing development, unlike what can be achieved readily in a single annual plan or project. Multi-year projects should be related to an outcome, rather than a duplication or a continuation of a prior year activity.

Applicants proposing multi-year projects must fully describe project objectives and activities, and provide an itemized budget of the Federal and nonfederal costs of the project, for each budget period. Applicants must justify the entire time-frame of the project and describe the results to be achieved by the end of the project period. The budget period for each multi-year project grant will be 12 months. Funding after the first twelve months of a multi-year project will be noncompetitive and will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of Federal funds, and compliance with applicable statutory and regulatory requirements. The applicant should specify the entire project period length on the Form 424, Block 16, not the length of the first budget period.

Multi-year projects, as well as single-year projects, must be complete, self-sustaining or supported with other than ANA funds at the end of the project period. ANA's funding of multi-year projects is not for a program in the applicant community which operates indefinitely and has need for ANA funding on an annual basis.

Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind contributions. The total approved cost of the project is the sum of the Federal share and the nonfederal share. An itemized budget detailing the applicant's nonfederal share and its source must be included in the application. A request for a waiver of the nonfederal share requirement may be submitted in accordance with § 1336.50(b)(3) of the Native American Program Regulations.

Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

The Application Process

Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application requirements are approved under OMB Control No. 0980–0016. The application kits containing the necessary forms may be obtained from: Administration for Native Americans, Office of Human Development Services, DHHS, 2901 3rd Avenue, Seattle, WA 98121. Attention: No. 13612–872, (206) 442–0992.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be hand delivered or mailed to: Department of Health and Human Services, Office of Human Development Services, Discretionary Grants Management Banch, 2901 3rd Avenue, Seattle, WA 98121. Attention: ANA 13612–872.

The application shall be signed by an individual authorized to act for the applicant tribe or organization and to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Application Consideration

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in

writing of any such determination by ANA.

• Complete applications that conform to all the requirements of this program announcement are subject to a competitive review and evaluation process by an independent review panel against the published criteria. The results of this review will assist the Commissioner in making final funding decisions.

• The Commissioner's decision also takes into account the comments of the ANA staff, State and Federal agencies having performance related informaton, and other interested parties.

• The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this Program Announcement, and the limits of available funds.

• After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within 120 days of the closing date. Successful applicants are notified through an official Notice of Financial Assistance Awarded (NFAA). The NFAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the nonfederal matching share requirement.

Review Process

Applications submitted in a timely manner under this program announcement will undergo a prereview to determine:

(1) That the applicant is eligible in accordance with the Eligible Applicant Section of the announcement;

(2) That the application proposes project objectives which are responsive to the Program Announcement; and

(3) That the application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation. All required materials and forms are listed in the Grant Application Checklist in the Application Kit.

Applications which pass the prereview will be evaluated and rated by an independent review panel on the basis of the following criteria:

(1) *Project goals.* The application describes long-range community goals, within the context of a long range plan. (10 points)

(2) *Project objectives and activities.* The application proposes project objectives, and project activities which:

• Are realistic;

• Are based on a fully described and locally determined balanced social and economic development strategy;

• Clearly address a major problem within the community; and

• Are adequately addressed by supporting evidence, documentation or information from reports or studies. (25 points).

(3) *Project outcomes.* The proposed project will result in measurable, concrete outcomes which will clearly contribute to the overall development of the community and its members. Where possible, baselines are provided against which the outcomes can be evaluated at year end. (Example: Unemployment will decrease by 2 percent on the reservation, from 13 percent to 11 percent.) (20 points)

(4) *Resource commitments.* The applicant has justified its need for ANA funds and has referenced other resources which will assist the project. The application demonstrates the coordinated use of specific nonfederal and Federal resources (other than from ANA) as part of its strategy. (15 points)

(5) *Budget and work plan.* The application presents a detailed budget and work plan, with the budget specifically related to the work plan. The budget and work plan contain complete explanations and justification of line items, including technical assistance. The budget is reasonable in terms of the outcome and benefits expected. (15 points)

(6) *Management and administrative capabilities.* The applicant demonstrates the management and administrative capabilities necessary to ensure accountability and to justify receipt of federal funds. The application identifies by position or role all proposed key personnel, consultants, and contractors, and indicates their qualifications by the inclusion of rèsumès or position descriptions. (15 points)

Guidance to Applicants

ANA seeks to fund projects that reflect self-determination at the local level; that cause measurable impact in the community at the end of the project period; that have a discernible completion date and do not require continued ANA support; and that incorporate a developed strategy for achieving social and economic self-sufficiency, a strategy that utilizes all resources in the community.

The following policies, pointers, and instructions are provided to assist applicants in developing a fully competitive application.

I. Projects or Activities That Generally Will Not Meet the Purposes of This Announcement or Which Are Inconsistent With the Policies of ANA

• Projects which support a grantee in providing training and/or technical assistance (T/TA) to other tribes and Native American organizations ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or use for its members (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is encouraged;

• Plans, feasibility studies, or manuals that are not essential to achieving the long-range goals of the local community;

• On-going social service delivery, or continuation of existing social service delivery programs, or direct services;

• Core administrative functions or major activities that essentially support the applicant's administrative office;

• Project goals which are not responsive to one or more of the three ANA goals (Governance, Economic Development, Social Development);

• Projects plans or strategies clearly not determined or developed at the local level;

• Proposals from consortia of tribes that are not specific in regard to support from and roles of member tribes;

• Projects which should be supported by other Federal funding sources appropriate and available for the proposed activity;

• Lack of measurable, concrete outcomes or benefits to the community;

• Activities that will not be completed, not be self-sustaining or not be supported by other than ANA funds at end of the project period;

• Lack of demonstrated coordination with non-ANA resources;

• Lack of a justification or explanation for requesting ANA funds, or a lack of discussion of other resources and revenues for use in the project;

• The purchase of real estate (see 45 CFR 1336.50 (e)) or construction with ANA funds (see HDS Grants Administration Manual 3–e);

• Investment in business development (venture capital);

• Projects reflecting heavy reliance on consultant use, especially where consultants have prepared the application and have written themselves a major role in the project.

ANA also will review very carefully and critically applications in which major capital expenditures, franchise or management fees, or the acquisition of major capital equipment, especially

computers or word processing equipment, are a major component of the budget. During negotiation, such expenditures may be deleted from the budget of an otherwise approved application.

II. Pointers on the Application Process Itself

- The application's Form 424 must be signed by the applicant's representative authorized to act with full authority for the applicant.
- ANA suggests that the pages of the application be numbered sequentially from the first page. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.
- Two copies of the application plus the original are required.
- Applicants are encouraged to have someone other than the author apply the evaluation criteria and score the application prior to its submission in order to gain a better sense of their application's quality and potential competitiveness.
- Applications involving special circumstances, i.e., business development, should include a description of the unique characteristics of the project. For example, an applicant may wish to include ownership stipulations, market potential, financing aspects, cost of production (service or product), projected profit, and a 3–5 year pro forma financial statement. The more information given a review panel on a proposed business, the better able it is to evaluate the potential for success.
- A project abstract summarizing the proposed project must be included. Detailed instructions are included in the Application Kit.
- ANA does not fund on the basis of need. ANA funds those projects that have the greatest potential for positively affecting a community's local governance and social and economic development.
- For purposes of planning and developing an ANA application, the expected project start date for successful applicants will be 120 days after the closing date under which the application was submitted.
- ANA will not accept two identical applications from two different applicants to serve the same geographical or constituent area, nor will ANA fund similar projects serving the same constituency.
- ANA will accept only one application from any one applicant. If an applicant sends in two applications, the one with the earlier postmark will be accepted for review.
- An applicant from a federally recognized tribe must be from the governing body.

Due Dates for Receipt of Applications

The closing dates for applications submitted in response to this program announcement are January 16, 1987 and June 5, 1987.

Receipt of Applications

Applications must be hand delivered or mailed.

Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting the deadline if they are:

(1) Received on or before the deadline date at the address specified in the Application Submission Section, or

(2) Sent on or before the deadline date. (Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service or a legible postmark date from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications. Applications which do not meet the criteria in the above paragraph of this section are considered late applications. HDS shall notify each late applicant that its aplication will not be considered in the current competition.

Extension of deadlines. HDS may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if HDS does not extend the deadline for all applicants, it may not waive or exend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dared: July 30, 1986.

William Lynn Engles,

Commissioner, Administration for Native Americans.

Approved: September 22, 1986.

Jean K. Elder,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 86–23012 Filed 10–9–86; 8:45 am]

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federal register

Friday
October 10, 1986

Part IV

Environmental Protection Agency

Preliminary Determination To Cancel Registrations and Deny Applications for All Pesticide Products That Contain Cadmium Compounds; Availability of Technical Support Document and Draft of Intent To Cancel; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/20C; FRL-3094-3]

Preliminary Determination To Cancel Registrations and Deny Applications for All Pesticide Products That Contain Cadmium Compounds; Availability of Technical Support Document and Draft of Intent To Cancel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Preliminary Determination; Notice of Availability.

SUMMARY: This Notice announces EPA's preliminary determination to cancel registrations and to deny applications for all pesticide products that contain cadmium compounds (salts of chloride, sebacate, succinate, carbonate, and anilinocadmium dilactate) as active ingredients and that are for use on turf sites. The proposed action is based on the Agency's determination that the use of cadmium fungicides will result in unreasonable adverse effects to applicators of the products for these uses. This Notice further informs the public of the availability of a draft Notice of Intent to Cancel and documents in support of this action.

DATE: Comments from the public on this notice must be received on or before November 24, 1986.

ADDRESS: Three copies of written comments, identified by the docket number [OPP-30000/20C] should be sent to: By mail:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to:

Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail:

Valerie M. Bael, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number:

Rm. 1006, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2314).

SUPPLEMENTARY INFORMATION:

I. Comments and Docket

The Agency has established a public docket for the Cadmium Special Review. The docket will contain all public comments as well as other relevant Agency documents pertaining to the Special Review. For a complete list of the categories of documents which are placed in a Special Review docket, see 40 CFR 154.15.

All interested persons may submit comments, regarding the risks and benefits associated with the use of cadmium pesticides and the Agency's proposed decision, to the address given above.

On a monthly basis, the Agency will distribute a compendium of indices for newly received comments and documents that have been placed in the public docket for this Special Review. This compendium will be distributed by mail to those members of the public who have specifically requested such material for this Special Review.

Information submitted in any comment or response concerning this Notice may be claimed confidential by making any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. To assert a claim of confidentiality for all or any part of a written submission concerning a Special Review, the submitter must furnish three copies of the material. Two complete copies must be submitted, with claimed CBI clearly marked in the text. Items in the document that are claimed confidential should be numbered consecutively throughout the text. The third copy must have the claimed CBI excised from the text without closing up or paraphrasing the remaining text. The deletions should be consecutively numbered to correspond to numbering of the complete copies. Each copy must be marked on the cover as to whether it contains claimed CBI. Information not marked confidential may be made available through the docket or otherwise disclosed publicly by EPA without prior notice to the submitter.

The docket and index will be available for inspection and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, at the following location:

Program Management and Support Division, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

II. Introduction

The Agency issued a notice commencing a Special Review of cadmium pesticides, as published in the **Federal Register** of October 26, 1977 (42 FR 56524). The Special Review was based on the determination that the use of cadmium pesticide products exceeded risk criteria relating to oncogenicity, mutagenicity, teratogenicity and fetotoxicity. Following review of public comments and available data, the Agency determined that the risk concerns for oncogenicity remained, and risk concerns for other acute and chronic effects (kidney effects) have been added. Risk concerns for mutagenicity, teratogenicity, and fetotoxicity no longer remain. The Agency also concluded that the use of cadmium fungicide would result in unreasonable adverse effects on applicators of the products to turf. Therefore, the Agency proposes in this Notice to deny applications and cancel registrations of cadmium pesticide products for this use.

III. Statutory and Regulatory Background

A. The Statute

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (7 U.S.C. 1136 et seq.). Before a product can be registered, it must be shown that it can be used without "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide" (FIFRA section 2(bb)). The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard for registration, then the Administrator may cancel the registration under section 6 of FIFRA.

B. The Special Review Process

The Special Review process, formerly called the Rebuttable Presumption Against Registration (RPAR), is a mechanism by which the Agency collects information on the risks and benefits associated with the uses of pesticides to determine whether any use causes unreasonable adverse effects on the environment. The Special Review process is governed by 40 CFR Part 154.

Through the Special Review process the Agency (1) announces and describes its risk concerns regarding pesticidal use based on certain risk criteria; (2) establishes a public docket; (3) solicits comments from the public, and under certain circumstances, from the Secretary of Agriculture and the

Scientific Advisory Panel (SAP) regarding the Agency's analysis and proposed regulatory decisions; (4) reviews and reponds to all significant comments timely submitted; and (5) makes a final regulatory decision based on a balancing of risks and benefits associated with a pesticide's use.

IV. Preliminary Determination To Cancel

The Agency, by issuing this Notice of Preliminary Determination, is proposing to cancel registrations and deny applications for registration for all pesticide products that contain cadmium compounds (salts of chloride, sebacate, succinate, carbonate and anilinocadmium dilactate) as active ingredients and that are for use on turf sites. This action is based on the Agency's determination that the use of cadmium fungicides will result in significant risks to applicators of the products for this use. The Agency has also determined that the risk associated with this use is not outweighed by its relatively minor benefits as discussed in detail by the Agency in the Technical Support Document.

The Agency evaluated laboratory animal and human epidemiological studies for cadmium's potential to cause toxic effects. Both types of studies indicate that cadmium compounds are oncogenic and can cause kidney effects. The Agency also evaluated applicator exposure studies. In comparing the results of the toxicological studies with the estimated applicator exposures, the Agency concluded that there is up to a 10^{-4} lifetime risk of oncogenicity to certain applicators and a very close association between applicator exposure levels and kidney effect levels.

Data from a chronic rat inhalation study using cadmium chloride aerosol, and from an epidemiological study of factory workers who were chronically exposed to cadmium oxide and dust, suggest statistically significant, dose-related increases of lung tumors. Based on these and results of other studies, cadmium has been classified by the Agency as a "B1" or "probable" human carcinogen (Guidelines for Carcinogenic Risk Assessment 1986).

Based on results from other laboratory animal studies and a human epidemiological study of factory workers who were chronically exposed to cadmium compounds, the Agency concludes there is a significant association between dermal and inhalation exposure and kidney effects, including proteinuria and kidney dysfunction. The Agency has concluded that the cancer and kidney effects associated with cadmium exposure exceed the criteria for special review set out in 40 CFR Part 154.

The pesticidal usage of cadmium compounds is estimated to be approximately 30,000 pounds per year. This represents less than 0.1 percent of the total cadmium usage (30,000 to 35,000 tons) in the United States for industrial purposes. Although registered for use on both golf course and home lawn turf, cadmium fungicides are used almost exclusively by turf maintenance personnel on golf courses.

The Agency reviewed information concerning the benefits relating to cadmium fungicide uses. The benefits were assessed relative to the economic impacts which would result if cadmium compounds were cancelled and users chose to use alternative fungicides. Agency estimates suggest that the annual impacts on the principal use site, golf courses, may be approximately $240,000 for the affected golf courses, or approximately $500 per golf course using cadmium compounds. The impacts on other turf sites would be negligible.

In weighing the risks and benefits and considering regulatory options, the Agency considered measures to reduce applicator exposure and risk. Protective clothing requirements and imposition of a requirement prohibiting use of hand-held spray equipment were considered; however, the Agency evaluated the effectiveness and utility of these measures and concluded that they would not adequately mitigate exposure and risk.

Also, the Agency is concerned about the purposeful addition of a heavy metal (cadmium) to the environment. Cadmium pesticide products are produced for the intent of direct application to sites in the environment in comparison to cadmium compounds that enter the environment as by-products of industrial production. Given the commonly recognized undesirable characteristics of adding heavy metals to the environment, the high (30 pounds/acre/year) application rate, and the low benefits from applying cadmium pesticides, the Agency does not believe it prudent to permit the continued use of cadmium pesticides.

Therefore, in consideration of the toxicological effects of cadmium compounds, the estimated potential risks of these effects to applicators, the lack of effective measures to mitigate these unacceptable risks, the availability of effective alternatives, an estimated minor economic impact to users, and the undesirable practice of purposefully adding high levels of a heavy metal to the environment the Agency has made a preliminary determination that risks of use of cadmium for turf disease control outweigh the benefits of such use. Therefore, the Agency proposes to cancel registration and deny application for all turf uses of cadmium pesticide products. This is based on the Agency's judgment that the risks of continued cadmium use outweigh the associated benefits.

V. Availability of Technical Support Document and Draft Notice of Intent To Cancel

The Cadmium Technical Support Document (TSD) discusses in detail the basis for the issuance of the Notice of Preliminary Determination proposing to cancel registrations and deny applications for registration for all pesticide products that contain cadmium compounds as active ingredients in pesticide products that are for use on turf sites. In addition, a draft Notice of Intent to Cancel (NOIC) implementing the preliminary determination described in this Notice has been prepared for transmittal to the U.S. Department of Agriculture (USDA) and the SAP pursuant to sections 6 and 25 of FIFRA. Copies of this Notice of Preliminary Determination and the TSD will also be transmitted to the SAP and USDA. The draft NOIC and the TSD are available to the public on request. Copies of these documents may be obtained from Valerie M. Bael, Registration Division, at the address/telephone number given above.

Dated: September 30, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-23011 Filed 10-9-86; 8:45 am]

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federal register

Friday
October 10, 1986

Part V

Federal Home Loan Bank Board

12 CFR Part 571

Transfers of Assets of Insured Institutions; Interpretive Rule; Clarifying Amendment

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 571

Transfers of Assets of Insured Institutions

Dated: October 7, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Interpretive rule; clarifying amendment.

SUMMARY: The Board is adopting a clarifying amendment to its statement of policy regarding mergers and transfers of assets. The purpose of the amendment is to make clear that the Board's regulations governing transfers of assets and savings account liabilities of insured institutions are applicable to transfers by operation of law which are effected pursuant to charter conversions, mergers, consolidations and other business combinations and reorganizations in which an insured institution is not the surviving entity, and that, accordingly, application to the approval by the Board are required for such transactions.

EFFECTIVE DATE: October 10, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Buchman, Attorney, (202) 377-6963; or Julie L. Williams, Deputy General Counsel and Director, Corporate and Securities Division, (202) 377-6459; Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On April 26, 1983, the Federal Home Loan Bank Board ("Board"), acting as head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), amended § 563.22 of its regulations governing institutions whose accounts are insured by the FSLIC ("insured institutions") to require that insured institutions which propose to make "transfers" of a substantial portion of their assets or savings account liabilities must file an application with and receive the approval of the Board. *See* Resolution No. 83-243, 48 FR 21302 (May 12, 1983) (codified at 12 CFR 563.22(b)). In support of its action, the Board noted that bulk transfers could raise significant supervisory and legal concerns and that the Board's review and consideration of such transactions was therefore necessary. *Id.* At the same time, the Board also adopted a definition of the term "transfers" which described a number of types of transactions which would be subject to the application and approval requirements of § 563.22(b). In § 571.5(a) of its regulations (12 CFR 571.5(a)), the Board defined "transfers" as "transfers in bulk not made in the ordinary course of business, including the transfer of assets and savings account liabilities, purchase of assets, and assumption of savings accounts and liabilities."

Within the past six months a number of contemplated transactions have been announced in which the assets and savings account liabilities of an insured institution are to be transferred to a commercial bank or savings bank insured by the Federal Deposit Insurance Corporation ("FDIC"). In several instances, the transfer is to be effected by means of a transaction in which the assets of an institution are purchased, and its liabilities are assumed, by a bank ("purchase and assumption transaction"). In other cases, however, the transfer would occur by operation of law pursuant to the conversion of an institution into a bank, the accounts of which would be insured by the FDIC ("thrift-to-bank conversion"), and the subsequent acquisition of the converted institution by a bank or bank holding company.

Transfers involving purchase and assumption transactions fall clearly within the definition of "transfer" in 12 CFR 571.5(a). Consequently, it is also clear that application to and approval by the Board are required for these types of transactions under 12 CFR 563.22(b). The Board notes, however, that some uncertainty may exist as to whether the provisions of § 563.22(b) apply to transfers by operation of law because transfers of this type are not specifically listed in the Board's definition. In this regard, the Board believes that in several instances proposed transactions may have been structured as transfers by operation of law (rather than bulk asset sales) in an effort to avoid the Board scrutiny which would necesssarily accompany an approval requirement.[1]

In order to resolve any uncertainty concerning the proper interpretation of its asset transfer regulations, the Board is hereby amending its definition of "transfers" in § 571.5(a) to make clear that all transfers of assets or account liabilities not in the ordinary course of business from an insured institution to a different corporate entity, whether effected by conventional transfer, operation of law, or otherwise, and regardless of the characterization of the transaction under state law, are subject to the Board's approval. The Board believes that there is no basis for limiting the application and approval requirements of § 563.22(b) only to transfers which result from a conventional purchase and assumption transaction or a bulk sale of assets. In the Board's view, it is consistent with the language and purpose of the regulation to apply § 563.22(b) to all transfers, other than those already covered by § 563.22(a) or other regulations, regardless of how they may be effected, whether by statutory conversions, mergers, consolidations, other business reorganizations or combinations or otherwise, and regardless of whether an FSLIC-insured institution is the surviving corporate entity. A transfer by operation of law has the same practical effect as a purchase and assumption transaction: Namely, transfer of an institution's assets, deposits, and other liabilities to a separately existing legal entity. Moreover, many of the same legal and supervisory issues are raised in both contexts. Thus, the Board sees no reason to draw a distinction between transfers structured as a bulk sale of assets and those which occur as a consequence of a corporate reorganization or transformation. Although the structure of such transactions may differ, the effect is the same, and, thus, both equally warrant Board oversight.

The clarifying amendment to § 571.5(a) which the Board is adopting today also is consistent with one of the Board's primary purposes when it amended § 563.22(b) in 1983—to protect accountholders whose rights and interests could be adversely affected by a transfer of their accounts in connection with a transfer of substantially all of an institution's assets. *See* Board Resolution No. 83-243, 48 FR at 21303. Conversion by operation of law of a mutual institution into a commercial bank or savings bank insured by the FDIC presents the concern that the rights and interests of the accountholders in the institution would no longer be preserved and protected by the Board's conversion regulations (12 CFR Part 563b). Similarly, transformation into an FDIC-insured bank of an insured institution which has recently converted to the stock form of ownership, and the accompanying transfer of the institution's liquidation account, would limit the ability of the Board to ensure protection of former mutual

[1] Other important legal issues are raised by these types of transfers, including whether the institution must pay to the FSLIC a final insurance premium pursuant to section 407(d) of the National Housing Act, as amended (12 U.S.C. 1730(d)), and, in the case of an institution which has converted to the stock form of ownership, whether distribution of its liquidation account to accountholders would be required under § 563b.3(f)(3) of the Board's conversion regulations (12 CFR 563b.3(f)(3)). These issues are not addressed by this amendment.

accountholders in the liquidation account of the converted institution in the event of its subsequent liquidation. Thus, the Board's interpretation of § 563.22(b) as requiring application to and approval by the Board for transfers by operation of law, and the amendment to 12 CFR 571.5(a) which clarifies this interpretation, furthers a primary objective of the Board when paragraph (b) was added to § 563.22. *See id.;* Board Resolution No. 83–88, 48 FR 8480 March 1, 1983).

In addition, the Board believes that application of § 563.22(b) to transfers of all types, whether effected through bulk sales transactions or by operation of law, also is supported by the approach which has been followed in cases of comparable concepts implemented by the Savings and Loan Holding Company Amendments to the National Housing Act ("Holding Company Act") and other regulations of the Board. The provisions governing "acquisitions" under the Holding Company Act, for example, explicitly encompass transfers of control of an institution effected through a variety of types of transactions, including mergers, consolidations, or purchases of assets. *See* 12 U.S.C. 1730(e)(1)(A)(ii). The Board's conversion regulations also define a transfer which would entail an acquisition of control as including "every type of acquisition, whether effected by purchase, exchange, operation of law or otherwise." *See* 12 CFR 563b.3(i)(8)(iii). The approach taken in determining whether a transaction is an "acquisition" for purposes of the Holding Company Act and the Board's regulations is to focus on the practical consequences of a transaction, rather than its characterization or structure. A similar approach in this context would dictate that transfers by operation of law are "transfers" within the meaning of § 571.5(a) and, therefore, within the scope of § 563.22(b).

As a final point, the Board notes that its Office of General Counsel ("OGC") has recently issued several opinion letters advising insured institution contemplating transfers by operation of law that their proposed transactions would be "transfers" which fall within the ambit of § 563.22(b). The Board agrees with OGC's interpretation of the definition of "transfers" in the existing regulation and does not believe that today's clarifying amendment to § 571.5(a) is necessary in order for § 563.22(b) to be applicable to all types of transfers. However, the Board desires to state clearly its position with regard to this matter and has concluded that this interpretation is the most effective method of notifying all insured institutions that transfers by operation of law are also subject to the provisions of its transfers of assets regulations.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that notice and public comment are unnecessary, as is the 30-day delay of the effective date of the amendment, because of the clarifying and interpretive nature of this amendment. The Board also finds that a 30-day delay of the effective date of the amendment to 12 CFR 571.5(a) should not apply because such delay would be contrary to the public interest. Unless the amendment takes effect immediately, uncertainty could continue to exist as to the types of transfers subject to § 563.22(b). Moreover, during the delay period insured institutions may attempt to consummate transfers of their assets and liabilities by operation of law without having complied with the application and approval requirements of the regulations. Therefore, good cause exists to make this amendment effective on Octover 10, 1986.

List of Subjects in 12 CFR Part 571

Accounting, Bank deposit insurance, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 571, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 571—STATEMENTS OF POLICY

1. The authority citation for Part 571 is revised to read as follows, and the authority citations at the ends of the sections are removed.

Authority: Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 406, 407, 48 Stat. 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1725, 1726, 1729, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071.

2. Paragraph (a) of § 571.5 is revised to read as follows:

§ 571.5 Mergers and transfers of assets and liabilities.

(a) *General policy.* This is a statement of the Federal Home Loan Bank Board's general policy on merger and transfer proposals. It does not ordinarily apply to mergers and transfers instituted for supervisory reasons. The term "merger" includes consolidations as well as statutory mergers, and the term "transfers" means transfers in bulk not made in the ordinary course of business, including, but not limited to, transfers of assets and savings account liabilities, purchases of assets, assumptions of savings accounts and other liabilities, and transfers of assets in bulk which are effected by operation of law pursuant to statutory conversions, mergers, consolidations, and other reorganizations and combinations. Transactions in accordance with § 545.82 of this chapter between a Federal association or a state-chartered insured institution and a finance subsidiary as defined in § 563.13–2(a)(4) of this subchapter are not "transfers" for purposes of this paragraph. Potential merger and transfer applicants are encouraged to review proposed transactions with the Supervisory Agent prior to proceeding with the formal application process. Generally, the Board regards mergers or transfers primarily as business decisions to be made by the institutions involved.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–23171 Filed 10–9–86; 10:00 am]

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